

Agenda--September 10-11, 2003

California State Board of Education (SBE) meeting agenda.

FULL BOARD Public Session

AGENDA

September 10-11, 2003

All Items within the Agenda are Portable Document Format (PDF) Files. And you'll need Adobe Acrobat Reader to open them.
Schedule of Meeting and Closed Session Agenda

[Schedule of Meeting and Closed Session Agenda](#) (PDF; 70KB; 4pp.)

Wednesday, September 10, 2003 - 9:00 a.m.± (Upon adjournment of Closed Session if held)
California Department of Education, 1430 N Street, Room 1101, Sacramento , California

- Call to Order
- Salute to the Flag
- Approval of Minutes (November 2003 Meeting)
- Announcements
- Communications
- REPORT OF THE SUPERINTENDENT
- SPECIAL PRESENTATIONS

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

ITEM 1 (PDF; 21KB; 4pp.)	STATE BOARD PROJECTS AND PRIORITIES. Including, but not limited to, future meeting plans; agenda items; State Board office budget; staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; review of the status of State Board-approved charter schools as necessary; and other matters of interest.	INFORMATION ACTION
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ITEM 2 (PDF; 11KB; 1p.)	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.	INFORMATION
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ITEM 3 (PDF; 19KB; 1p.)	<i>No Child Left Behind Act of 2001</i> - Including, but not limited to, Update on Consolidated Application. <ul style="list-style-type: none">• Last Min. (PDF; 548KB; 2pp.)	INFORMATION ACTION
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ITEM 4 (PDF; 11KB; 1p.)	<i>No Child Left Behind Act of 2001</i> - Approve Local Educational Agency Plans (required by Section 1112). <ul style="list-style-type: none">• Last Min. (PDF; 25KB; 9pp.)	INFORMATION ACTION
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[ITEM 5](#) (PDF; 19KB; 2pp.) *No Child Left Behind Act of 2001 - Approve Supplemental Educational Service Providers (required by Title I, Section 1116(e)).* INFORMATION ACTION

- [Last Min.](#) (PDF; 51KB; 2pp.)

[ITEM 6](#) (PDF; 23KB; 4pp.) *No Child Left Behind Act of 2001 Supplemental Educational Service Providers - Adopt Proposed Title 5 Regulations.* INFORMATION ACTION

[ITEM 7](#) (PDF; 362KB; 9pp.) Standardized Testing and Reporting (STAR) Program - Including, but not limited to, STAR Update. INFORMATION ACTION

- [Last Min.](#) (PDF; 359KB; 2pp.)

[ITEM 8](#) (PDF; 76KB; 14pp.) Standardized Testing and Reporting (STAR) Program - Approve Commencement of the Rulemaking Process for Amendments to Title 5. INFORMATION ACTION

- [Last Min.](#) (PDF; 329KB; 8pp.)

[ITEM 9](#) (PDF; 164KB; 32pp.) Standardized Testing and Reporting (STAR) Program - Approval to Redesignate Spanish Assessment of Basic Education, 2 nd Edition (SABE/2) and Approval of 2004 Contract with CTC/McGraw-Hill. INFORMATION ACTION

[ITEM 10](#) (PDF; 15KB; 4pp.) California High School Exit Examination (CAHSEE) - Including, but not limited to, CAHSEE Update. INFORMATION ACTION

[ITEM 11](#) (PDF; 123KB; 27pp.) California High School Exit Examination (CAHSEE) -Adopt Proposed Title 5 Regulations. INFORMATION ACTION

- [Last Min.](#) (PDF; 121KB; 24pp.)

[ITEM 12](#) (PDF; 9KB; 1p.) California English Language Development Test (CELDT) - Including, but not limited to, CELDT Update. INFORMATION ACTION

[ITEM 13](#) (PDF; 31KB; 5pp.) Immediate Intervention/Underperforming Schools Program (II/USP) - Consider definition of "significant growth for certain schools failing to meet annual Academic Performance Index (API) growth targets (Education Code Section 52055.5). INFORMATION ACTION

[ITEM 14](#) Territory Transfer Appeal: From San Lorenzo Valley Unified School District in Santa Cruz County to Los Gatos-Saratoga Joint Union High School District and Lakeside Joint School District in Santa Clara County . ACTION
(PDF; 31KB; 12pp.)

[ITEM 15](#) Administering Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication During the Regular School Day - Adopt Proposed Title 5 Regulations. ACTION
(PDF; 130KB; 27pp.)

[ITEM 16](#) Annual Financial Reporting for all K-12 Local Educational Agencies, including Charter Schools, as Required by Assembly Bill 1994 (Chapter 1058, Statutes of 2002) - Adopt Proposed Title 5 Regulations. INFORMATION ACTION
(PDF; 12KB; 2pp.)

- [Last Min.](#) (PDF; 139KB; 10pp.)

[ITEM 17](#) Funding Determinations for Charter Schools Offering Nonclassroom-based Instruction Pursuant to Senate Bill 740 (Chapter 892, Statutes of 2001) - Adopt Proposed Title 5 Regulations. ACTION
(PDF; 27KB; 8pp.)

[ITEM 18](#) Alternative Schools Accountability Model (ASAM) -Adopt Proposed Title 5 Regulations. INFORMATION ACTION
(PDF; 67KB; 13pp.)

- [Last Min.](#) (PDF; 21KB; 4pp.)

[ITEM 19](#) Model Charter School Application - Consider for approval. INFORMATION ACTION
(PDF; 120KB; 27pp.)

[ITEM 20](#) Legislative Update - Including, but not limited to, information on legislation and legislative priorities. INFORMATION ACTION
(PDF; 31KB; 6pp.)

[ITEM 21](#) AB 2326 (Frommer) Task Force on Braille Reading Standards - Approve Proposed Members. ACTION
(PDF; 28KB; 6pp.)

[ITEM 22](#) The Principal Training Program (AB 75) - Approve Training Providers. ACTION
(PDF; 12KB; 2pp.)

[ITEM 23](#) The Principal Training Program (AB 75) - Approve Local Educational Agencies ACTION
(PDF;
18KB;
4pp.)
(LEAs) and Consortia Funding Applications.

[ITEM 24](#) Public Charter Schools Grant Program (PCSGP) - Approve Recommended Grant ACTION
(PDF;
11KB;
6pp.) Award Recipients.
• [Last Min.](#) (PDF; 17KB; 6pp.)

[ITEM 25](#) Assignment of Numbers for Charter School Petitions. ACTION
(PDF;
13KB;
2pp.) • [Last Min.](#) (PDF; 17KB; 6pp.)

[ITEM 26](#) 2002-03 (and beyond) determination of funding requests from charter schools ACTION
(PDF;
18KB;
2pp.) pursuant to Senate Bill 740 (Chapter 892, Statutes of 2001), specifically Education
Code sections 47612.5 and 47634.2.

[ITEM 27](#) Instructional Materials Fund - Approve 2003-04 Budget. INFORMATION
(PDF;
21KB;
6pp.) ACTION

ADJOURNMENT OF DAY'S SESSION

Thursday, September 11, 2003 - 8:00 a.m.± (Upon adjournment of Closed Session if held)

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

REPORT OF THE SUPERINTENDENT (unless presented on the preceding day)

SPECIAL PRESENTATIONS

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

ITEMS DEFERRED FROM PRECEDING DAY

Any matters deferred from the previous day's session may be considered.

The State Board of Education will also consider and take action as appropriate on the following agenda items:

[ITEM 28](#) *No Child Left Behind Act of 2001* Teacher Requirements ("Highly Qualified INFORMATION
(PDF;
66KB;
14pp.) Teacher") - Including, but not limited to, Adoption of Proposed Title 5 Regulations. ACTION
• [Last Min.](#) (PDF; 72KB; 9pp.)

[ITEM 29](#) Approval of 2003-2004 Consolidated Applications. ACTION
(PDF;
19KB;
2pp.) • [Last Min.](#) (PDF; 9KB; 2pp.)

WAIVER REQUESTS

CONSENT MATTERS

The following agenda items include waivers and other administrative matters that California Department of Education (CDE) staff have identified as having no opposition and presenting no new or unusual issues requiring the State Board's attention.

GOLDEN STATE EXAMINATION

[ITEM WC-1](#)
(PDF; 21KB;
4pp.) Request by various districts to waive *Education Code* (EC) Section 51451, regarding ACTION the method of qualifying this year's high school seniors for a Golden State Seal Merit Diploma.
CDSIS--various
(Recommended for APPROVAL WITH CONDITION)

INSTRUCTIONAL MATERIALS SUFFICIENCY (Audit Findings)

[ITEM WC-2](#)
(PDF; 17KB;
2pp.) Request by two school districts for a retroactive waiver of *Education Code* ACTION (EC) Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. These districts have audit findings for fiscal year 2001-2002 that they 1) failed to hold the public hearing, or 2) failed to properly notice (10 days) the public hearing and/or 3) failed to post the notice in the required three public places.
CDSIS-51-6-2003 Montecito Union School District
CDSIS-53-5-2003 Snelling Merced Falls School District
(Recommended for APPROVAL)

NONPUBLIC SCHOOL/AGENCY (annual certification)

[ITEM WC-3](#)
(PDF; 7KB;
1p.) Sacramento City Unified School District is requesting to waive *Education Code* (EC) Section 56366.1(g), which would allow New Dimension Learning Academy to submit their renewal application outside the August 1 - October 31, timeline.
CDSIS-5-7-2003
(Recommended for APPROVAL) ACTION

[ITEM WC-4](#)
(PDF; 7KB;
1p.) Request by Center Unified School District to waive *Education Code* (EC) ACTION Section 56366.1(g), which would allow Integrated Rehabilitation Services to submit their renewal application outside the August 1 October 31, timeline.
CDSIS-57-6-2003
(Recommended for APPROVAL)

[ITEM WC-5](#)
(PDF; 8KB;
1p.) Request by Pasadena Unified School District to waive *Education Code* (EC) ACTION Section 56366.1(g) which would allow Villa Esperanza Services to submit their renewal application outside the August 1 - October 31, timeline.
CDSIS-55-6-2003
(Recommended for APPROVAL)

SCHOOL MEAL MANDATE (Summer School Session)

[ITEM WC-6](#) Request by two school districts to waive *Education Code* (EC) Section 49550, the ACTION
(PDF; 19KB; State Meal Mandate during the summer school session.
2pp.) CDSIS-44-6-2003 Little Lake City School District
CDSIS-58-6-2003 Beverly Hills Unified School District
(Recommended for APPROVAL)

NON-CONSENT (ACTION) MATTERS

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

ELECTIONS/UNIFICATION

[ITEM W - 1](#) Request by the Alhambra City Elementary School District and the ACTION
(PDF; 10KB; Alhambra City High School District to waive part or all of *Education Code*
2pp.) (EC) sections 5033, 35101, 35102, 35106, 35737, and 35756-35765 regarding
elections for unification proposals and governing boards of newly unified school
districts.
CDSIS-50-6-2003
(Recommended for APPROVAL WITH CONDITIONS)
EC 33051(c) will apply

- [Last Min.](#) (PDF; 9KB; 1p.)

EMPLOYMENT - RETIRED SCHOOL TEACHER

[ITEM W - 2](#) Request by Los Angeles Unified School District for a waiver of *Education* ACTION
(PDF; 10KB; Code (EC) Section 45134(c), to allow the employment of three State Teacher
2pp.) Retirement System (STRS) retirees as staff assistants to board members. (Donna
Smith, Lannie Foster and Edward Burke)
CDSIS-22-7-2003
(Recommended for APPROVAL WITH CONDITIONS)

EQUITY LENGTH OF TIME

[ITEM W - 3](#) Request by North Sacramento Elementary School District for a waiver of ACTION
(PDF; 10KB; *Education Code* (EC) Section 37202, equity length of time requirement to allow a
2pp.) full day kindergarten pilot program at Northwood Elementary School
CDSIS-32-6-2003
(Recommended for APPROVAL WITH CONDITIONS)

[ITEM W - 4](#) Request by Las Virgenes Unified School District to waive *Education Code* ACTION
(PDF; 11KB; (EC) Section 37202, equity length of time requirement to allow a full day
2pp.) kindergarten program at Sumac School.

CDSIS-37-6-2003
 (Recommended for APPROVAL WITH CONDITIONS)

[ITEM W - 5](#)
 (PDF; 9KB; 2pp.) Request by Auburn Union School District for a renewal waiver of *Education Code* (EC) Section 37202, equity length of time requirement to allow a full day kindergarten program at Rock Creek School and Alta Vista School.
 CDSIS-11-7-2003
 (Recommended for APPROVAL) EC 33051(c) will apply ACTION

[ITEM W - 6](#)
 (PDF; 11KB; 2pp.) Request by Salinas City Elementary School District to waive *Education Code* (EC) Section 37202, equity length of time requirement to allow a full day kindergarten program at Boronda, Loma Vista and Los Padres Elementary Schools.
 CDSIS-28-7-2003
 (Recommended for APPROVAL WITH CONDITIONS) ACTION

[ITEM W - 7](#)
 (PDF; 11KB; 2pp.) Request by Paramount Unified School District for a renewal to waive *Education Code* (EC) Section 37202, equity length of time requirement for kindergarten students at Wirtz School to allow full day kindergarten programs.
 CDSIS-30-7-2003
 (Recommended for APPROVAL WITH CONDITIONS) ACTION

[ITEM W - 8](#)
 (PDF; 10KB; 2pp.) Request by Simi Valley Unified School District to waive *Education Code* (EC) Section 37202, equity length of time requirement to allow full day kindergarten programs at seven elementary schools: Knolls, Santa Susana, Park View, Justin, Arroyo, Township and Berylwood.
 CDSIS-4-7-2003
 (Recommended for APPROVAL WITH CONDITIONS) ACTION

INSTRUCTIONAL MATERIALS FUNDING REALIGNMENT PROGRAM PETITION

[ITEM W - 9](#)
 (PDF; 10KB; 2pp.) Petition request under *Education Code* (EC) Section 60421(d) and 60200(g) by Alhambra School District to purchase non-adopted Instructional Resources (*Houghton Mifflin Mathematics, Grade 6*) using Instructional Materials Funding Realignment Program (IMFRP) monies.
 CDSIS-38-6-2003
 (Recommended for APPROVAL) ACTION

[ITEM W - 10](#)
 (PDF; 9KB; 2pp.) Petition request under *Education Code* (EC) Section 60421(d) and 60200(g) by Cypress School District to purchase non-adopted Instructional Resources (*Houghton Mifflin Mathematics, Grade 6*) using Instructional Materials Funding Realignment Program (IMFRP) monies.
 CDSIS-27-7-2003
 (Recommended for APPROVAL) ACTION

[ITEM W - 11](#)
 (PDF; 9KB;) Petition request under *Education Code* (EC) Section 60421(d) and 60200(g) by Palos Verde Peninsula School District to purchase Instructional Resources (ACTION

2pp.) *Everyday Mathematics*, 2001 (K-5) using Instructional Materials Funding Realignment Program (IMFRP) monies.
CDSIS-18-7-2003
(Recommended for APPROVAL WITH CONDITIONS)

[ITEM W - 12](#) (PDF; 9KB; 2pp.) Petition request under Education Code (EC) Section 60421(d) and 60200(g) by Explorer Elementary Charter School to purchase Instructional Resources (*Everyday Mathematics, K-6*) using Instructional Materials Funding Realignment Program (IMFRP) monies.
CDSIS-31-7-2003
(Recommended for APPROVAL WITH CONDITIONS) ACTION

INSTRUCTIONAL MATERIALS SUFFICIENCY (Audit Findings)

[ITEM W - 13](#) (PDF; 11KB; 2pp.) Request by Cold Springs Elementary School District for a retroactive waiver of *Education Code* (EC) Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. The district had an audit finding for fiscal year 2001-2002 that they failed to do the proper board "resolution" with their public hearing.
CDSIS-40-4-2003
(Recommended for APPROVAL WITH CONDITIONS) ACTION

9 th GRADE CLASS SIZE REDUCTION (Morgan Hart)

[ITEM W - 14](#) (PDF; 16KB; 2pp.) Request by Conejo Valley Unified School District for a renewal to waive *Education Code* (EC) sections 52082 and 52084 (a) and (b) under 9 th Grade Class Size Reduction (Morgan-Hart) to receive funding to reduce class size for first year Algebra in 8 th Grade in addition to Grade 9 English and Math.
CDSIS-13-7-2003
(Recommended for APPROVAL WITH CONDITIONS)
EC 33051(c) will apply ACTION

NONPUBLIC SCHOOL/AGENCY (child specific)

[ITEM W - 15](#) (PDF; 10KB; 2pp.) Request by Fullerton Joint Union High School District to waive *Education Code* (EC) Section 56366.1(a), certification for an uncertified nonpublic school, Youth Care Pine Ridge Academy located in Draper, Utah to provide services to one special education student, Brittany K.
CDSIS-12-5-2003
(Recommended for APPROVAL) ACTION

[ITEM W - 16](#) (PDF; 9KB; 2pp.) Request by Sonora Union High School District to waive *Education Code* (EC) Section 56366.1(a) certification for an uncertified nonpublic school, Bancroft School located in Haddonfield, New Jersey to provide services to one special education student, Taylor S.
CDSIS-27-5-2003
(Recommended for APPROVAL) ACTION

[ITEM W - 17](#) Request by Saddleback Valley Unified School District to waive *Education Code* (EC) Section 56366.1(a) certification for an uncertified nonpublic school, Sunhawk Academy located in Saint George , Utah to provide services to one special education student, Lauren B. CDSIS-21-7-2003 (Recommended for APPROVAL) ACTION
(PDF; 9KB; 2pp.)

END OF WAIVER REQUESTS

[ITEM 30](#) Seminar Session on Mathematics. INFORMATION
(PDF; 22KB; 1p.)

* * * PUBLIC HEARINGS * * *

Public Hearings on the following agenda items will commence no earlier than 10:00 a.m. The Public Hearings will be held after 10:00 a.m. as the business of the State Board permits.

[ITEM 31](#) Environmental Effect of the Formation of Alhambra Unified School District from Alhambra City Elementary School District and Alhambra City High School District in Los Angeles County . PUBLIC HEARING ACTION
(PDF; 45KB; 9pp.)

[ITEM 32](#) Proposed Formation of Alhambra Unified School District from Alhambra City Elementary School District and Alhambra City High School District in Los Angeles County . PUBLIC HEARING ACTION
(PDF; 53KB; 22pp.)

* * * END OF PUBLIC HEARINGS * * *

[ITEM 33](#) AB 466 Mathematics and Reading Professional Development Program (Chapter 737, Statutes of 2001): Including, but not limited to, rescinding previous action approving contract to create an archive of approved training curricula, and manage the review of training curricula submitted for Board approval, and instead approve consolidating services under the contract in one new local education agency. INFORMATION ACTION
(PDF; 10KB; 1p.)

[ITEM 34](#) Board Member Ethics Training as Required by Government Code sections 11146-11146.4. INFORMATION
(PDF; 10KB; 1p.)

Government Code sections 11146-11146.4 have been amended to require that all persons who file Form 700 Statement of Economic Interest must also complete an Ethics Training Course by a specified date. Periodically, opportunities are provided for new and continuing State Board members to complete this requirement. The Ethics Training will take approximately two hours, at the conclusion of which the State Board meeting will be adjourned.

ADJOURNMENT OF MEETING

For more information concerning this agenda, please contact Rae Belisle, Executive Director of the California State Board of Education, or Deborah Franklin, Education Policy Consultant, 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/ag/) [<http://www.cde.ca.gov/be/ag/ag/>].

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

Last Reviewed: Monday, November 21, 2011

California Department of Education

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CALIFORNIA STATE BOARD OF EDUCATION

State Board Members

Reed Hastings, President
Joe Nuñez, Vice President

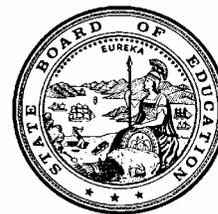
Robert J. Abernethy
Don Fisher
Brent Godfrey
Nancy Ichinaga
Carol S. Katzman
Suzanne Tacheny
Luis J. Rodriguez
Curtis Washington
Vacancy

Secretary & Executive Officer
Hon. Jack O'Connell

Executive Director
Rae Belisle

AGENDA

September 10-11, 2003



SCHEDULE OF MEETING

LOCATION

Wednesday, September 10, 2003

California Department of Education

9:00 a.m. ±

1430 N Street, Room 1101

STATE BOARD OF EDUCATION

Sacramento, California

Closed Session – IF NECESSARY

(916) 319-0827

(The public may not attend.)

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

Under *Government Code* section 11126(e)(1), 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, as necessary and appropriate, in closed session:

- *Acevedo, et al. v. State of California, et al.*, Sacramento County Superior Court, Case No. 03CS00827
- *Adkins, et al. v. State of California, et al.*, Sacramento County Superior Court, Case No. 03CS00938
- *Aguayo, et al. v. State of California, et al.*, Sacramento County Superior Court, Case No. 03CS00825
- *Amy v. California Dept. of Education, et al.*, Los Angeles County Superior Court, Case No. 99CV2644LSP
- *Boyd, et al. v. State of California, et al.*, Sacramento County Superior Court, Case No. 01CS00136
- *Brian Ho, et al., v. San Francisco Unified School District, et al.*, United States District Court, Northern District of California, Case No. C-94-2418 WHO
- *Buckle, et al. v. State of California, et al.*, Sacramento County Superior Court, Case No 03CS00826
- *California Association of Private Special Education Schools, et al., v. California Department of Education, et al.*, Los Angeles County Superior Court, Case No. BC272983
- *California Department of Education, et al., v. San Francisco Unified School District, et al.*, San Francisco Superior Court, Case No. 994049 and cross-complaint and cross-petition for writ of mandate and related actions
- *California State Board of Education v. Delaine Eastin, the Superintendent of Public Instruction for the State of California*, Sacramento County Superior Court, Case No. 97CS02991 and related appeal
- *Californians for Justice Education Fund, et al. v. State Board of Education*, San Francisco City/County Superior Court, Case No. CPF-03-50227

For more information concerning this agenda, please contact Rae Belisle, Executive Director of the California State Board of Education, or Deborah Franklin, Education Policy Consultant, at 1430 N Street, Room 5111, Sacramento, CA, 95814; P.O. Box 944272, Sacramento, CA 94244-2720; 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 website: www.cde.ca.gov/board.**

California State Board of Education

AGENDA.....September 10-11, 2003

- *Campbell Union High School District, et al. v. State Board of Education, et al.*, Sacramento Superior Court, Case No. 99CS00570
- *Chapman, et al. v. California Department of Education, et al.*, United States District Court, Northern District of California, Case No. C-01-1780 BZ
- *City Council of the City of Folsom v. State Board of Education*, Sacramento County Superior Court, Case No. 96-CS00954
- *Coalition for Locally Accountable School Systems v. State Board of Education*, Sacramento County Superior Court, Case No. 96-CS00939
- *Comité de Padres de Familia v. Honig*, Sacramento County Superior Court, Case No. 281124; 192 Cal.App.3d 528 (1987)
- *Crawford v. Honig*, United States District Court, Northern District of California, C-89-0014 DLJ
- *CTA, et al. v. Wilson*, United States District Court, Central District of California, Case No. 98-9694 ER (CWx) and related appeal
- *Daniel, et al. v. State of California, et al.*, Los Angeles Superior Court, Case No. BC214156.
- *Donald Urista, et al. v. Torrance Unified School District, et al.*, United States District Court, Central District of California, Case No. 97-6300 ABC
- *Educational Ideas, Inc. v. State of California, et al.*, Sacramento County Superior Court, Case No. 00CS00798
- *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
- *Ephorm, et al. v. California Board of Education, et al.*, Los Angeles Superior Court, Case No. TC013485
- *Larry P. v. Riles*, 495 F.Supp 926 (N.D. Ca. 1979) aff'd in part, rev'd in part, 793 F.2d 969 (9th Cir. 1986)
- *Maria Quiroz, et al. v. State Board of Education, et al.*, Sacramento County Superior Court, Case No. 97CS01793 and related appeal
- *Maureen Burch, et al. v. California State Board of Education*, Los Angeles County Superior Court, Case No. BS034463 and related appeal
- *McNeil v. State Board of Education*, San Mateo County Superior Court, Case No. 395185
- *Meinsen, et al. v. Grossmont Unified School District, et al.*, C 96 1804 S LSP, U.S. District Court, Southern District of California (pending)
- *Ocean View School District, et al. v SBE, et al.*, Superior Court of San Francisco, Case No. CGC-02-406738
- *Pazmino, et al. v. California State Board of Education, et al.*, San Francisco City/County Superior Court, Case No. CPF-03-502554
- *Porter, et al., v. Manhattan Beach Unified School District, et al.*, United States District Court, Central District, Case No. CV-00-08402
- *Roxanne Serna, et al., v. Delaine Eastin, State Superintendent of Public Instruction, et al.*, Los Angeles County Superior Court, Case No. BC174282
- *San Francisco NAACP v. San Francisco Unified School District, et al.*, United States District Court, Northern District of California, Case No. 78-1445 WHO
- *San Mateo-Foster City School District, et al., v. State Board of Education*, San Mateo County Superior Court, Case No. 387127
- *San Rafael Elementary School District v. State Board of Education, et al.*, Sacramento County Superior Court, Case No. 98-CS01503 and related appeal
- *Shevtsov v. California Department of Education*, United States District Court, Central District of California, Case No. CV 97-6483 IH (CT)
- *Valeria G., et al. v. Wilson, et al.*, United States District Court, Northern District of California, Case No. C-98-2252-CAL; *Angel V. v. Davis*, Ninth Circuit No. 01-15219
- *Wilkins, et al., v. California Board of Education, et al.*, Los Angeles Superior Court, Case No. TC014071
- *Williams, et al. v. State of California, et al.*, San Francisco Superior Court, Case No. 312236
- *Wilson, et al. v. State Board of Education, et al.*, Los Angeles Superior Court, Case No. BC254081

Under *Government Code* section 11126(e)(2), the State Board of Education hereby provides public notice that it may meet in closed session to determine whether, based on existing facts and circumstances, any matter presents a significant exposure to litigation [see *Government Code* section 11126(e)(2)(B)(ii)] and, if so, to proceed with closed session consideration and action on that matter, as necessary and appropriate [see *Government Code* section 11126(e)(2)(B)(i)]; or, based on existing facts and circumstances, if it has decided to initiate or is deciding whether to initiate litigation [see *Government Code* section 11126(e)(2)(C)].

For more information concerning this agenda, please contact Rae Belisle, Executive Director of the California State Board of Education, or Deborah Franklin, Education Policy Consultant, at 1430 N Street, Room 5111, Sacramento, CA, 95814; P.O. Box 944272, Sacramento, CA 94244-2720; 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 website: www.cde.ca.gov/board.**

California State Board of Education

AGENDA.....September 10-11, 2003

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 of employees exempt from civil service under Article VII, Section 4(e) of the California Constitution.

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 of employees exempt from civil service under Article VII, Section 4(e) of the California Constitution.

Wednesday, September 10, 2003

9:00 a.m. ± (Upon Adjournment of Closed Session, if held)

STATE BOARD OF EDUCATION
Public Session

California Department of Education

1430 N Street, Room 1101
Sacramento, California
(916) 319-0827

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

Thursday, September 11, 2003

8:00 a.m. ±

STATE BOARD OF EDUCATION
Closed Session – IF NECESSARY
(The public may not attend.)

California Department of Education

1430 N Street, Room 1101
Sacramento, California
(916) 319-0827

Please see Closed Session Agenda above. The Closed Session (1) may commence earlier than 8:00 a.m.; (2) may begin at or before 8:00 a.m., be recessed, and then be reconvened later in the day; or (3) may commence later than 8:00 a.m.

Thursday, September 11, 2003

8:00 a.m. ± (Upon Adjournment of Closed Session, if held)

STATE BOARD OF EDUCATION
Public Session

California Department of Education

1430 N Street, Room 1101
Sacramento, CA 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.

For more information concerning this agenda, please contact Rae Belisle, Executive Director of the California State Board of Education, or Deborah Franklin, Education Policy Consultant, at 1430 N Street, Room 5111, Sacramento, CA, 95814; P.O. Box 944272, Sacramento, CA 94244-2720; 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 website: www.cde.ca.gov/board.**

California State Board of Education

AGENDA.....September 10-11, 2003

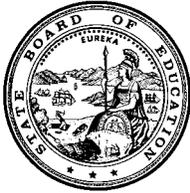
ALL TIMES ARE APPROXIMATE AND ARE PROVIDED FOR CONVENIENCE ONLY
ALL ITEMS MAY BE RE-ORDERED TO BE HEARD ON ANY DAY OF THE NOTICED MEETING
THE ORDER OF BUSINESS MAY BE CHANGED WITHOUT NOTICE

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 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, P.O. Box 944272, Sacramento, CA, 94244-2720; telephone, (916) 319-0827; fax, (916) 319-0175.

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SEPTEMBER 2003 AGENDA

<p>SUBJECT: STATE BOARD PROJECTS AND PRIORITIES. Including, but not limited to, future meeting plans; agenda items; State Board office budget; staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; review of the status of State Board-approved charter schools as necessary; and other matters of interest.</p>	<p><input checked="" type="checkbox"/> INFORMATION <input checked="" type="checkbox"/> ACTION <input type="checkbox"/> PUBLIC HEARING</p>
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RECOMMENDATION:

Consider and take action (as necessary and appropriate) regarding State Board Projects and Priorities, including, but not limited to, future meeting plans; agenda items; State Board office budget; staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; review of the status of State Board-approved charter schools as necessary; and other matters of interest.

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, and other matters of interest. The State Board has asked that this item be placed appropriately on each agenda.

Summary of Key Issue(s).

N/A

Fiscal Analysis (as appropriate).

N/A

Background Information Attached to this Agenda Item.

State Board Bylaws (as amended July 9, 2003).
Agenda Planner

AGENDA PLANNER 2003-2004

SEPTEMBER 10-11, 2003 BOARD MEETING.....SACRAMENTO

Other Activities of Interest to the State Board:

- Curriculum Development and Supplemental Materials Commission, Sacramento, September 17-19
- CAHSEE Standards-Setting Panel, Sacramento, September 18-20

OCTOBER 2003

Other Activities of Interest to the State Board:

- Release of National Assessment of Educational Progress (NAEP) test data, early or mid-October
- Advisory Commission on Special Education, Sacramento, October 30-31

NOVEMBER 12-13, 2003.....SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, evaluation of CAHSEE standards and consideration of recommendation of CAHSEE Standards-Setting Panel
- Student Advisory Board on Education, presentation of recommendations
- Interviews of candidates for 2003-04 Student Member of the State Board
- Appointment to Curriculum Commission, paper screening of applications
- 2003 Foreign Language Adoption, Curriculum Commission recommendations for adoption, for information only
- 2004 Health Adoption, action on Curriculum Commission recommendations for members of Instructional Materials Advisory Panels and Content Review Panel
- No Child Left Behind Act, update/action as necessary

Other Activities of Interest to the State Board:

- Curriculum Development and Supplemental Materials Commission, Sacramento, November 6-7

JANUARY 7-8, 2004.....SACRAMENTO

Board Meeting

- Election of Board Officers
- Presentation of the California Teacher of the Year Awards
- United States Senate Youth, presentation of awards
- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- No Child Left Behind Act, update/action as necessary

Other Activities of Interest to the State Board:

- Curriculum Development and Supplemental Materials Commission, Sacramento, January 14-16

AGENDA PLANNER 2003-2004

FEBRUARY 2004

Other Activities of Interest to the State Board:

- Advisory Commission on Special Education, Sacramento, February 12-13

MARCH 10-11, 2004.....SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- No Child Left Behind Act, update/action as necessary

APRIL 2004

Other Activities of Interest to the State Board:

- Curriculum Development and Supplemental Materials Commission, Sacramento, April 9
- Advisory Commission on Special Education, Sacramento, April 22-23

MAY 12-13, 2004.....SACRAMENTO

Board Meeting

- Board Meeting Schedule, evaluation of every-other month meeting schedule
- Instructional Materials, adopt maximum weight standards for textbooks
- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- No Child Left Behind Act, update/action as necessary

Other Activities of Interest to the State Board:

- Curriculum Development and Supplemental Materials Commission, Sacramento, May 20-21

JUNE 2004

Other Activities of Interest to the State Board:

- Advisory Commission on Special Education, Sacramento, June 24-25

JULY 7-8, 2004.....SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- No Child Left Behind Act, update/action as necessary

Other Activities of Interest to the State Board:

- 2004 Health Adoption, deliberations of Instructional Materials Advisory Panels and Content Review Panels, Sacramento, July 19-23

AGENDA PLANNER 2003-2004

SEPTEMBER 8-9, 2004.....SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- No Child Left Behind Act, update/action as necessary

Other Activities of Interest to the State Board:

- Curriculum Development and Supplemental Materials Commission, Sacramento, September 16-17

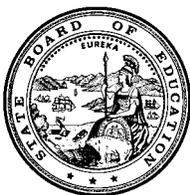
NOVEMBER 9-10, 2004 (TUESDAY/WEDNESDAY).....SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- No Child Left Behind Act, update/action as necessary
- 2004 Health Adoption, Curriculum Commission recommendations for adoption, for information only
- Student Advisory Board on Education, presentation of recommendations
- Interviews of candidates for 2005-06 Student Member of the State Board

Other Activities of Interest to the State Board:

- Curriculum Development and Supplemental Materials Commission, Sacramento, November 18-19



CALIFORNIA STATE BOARD OF EDUCATION ITEM # 02____

SEPTEMBER 2003 AGENDA

SUBJECT: PUBLIC COMMENT. Public Comment is invited on any matter <u>not</u> 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.	<input type="checkbox"/> ACTION
	<input checked="" type="checkbox"/> INFORMATION
	<input type="checkbox"/> PUBLIC HEARING

RECOMMENDATION:

Listen to public comment on matters not included on the agenda.

Summary of Previous State Board of Education Discussion and Action.

N/A.

Summary of Key Issue(s).

N/A.

Fiscal Analysis (as appropriate).

N/A.

Background Information Attached to this Agenda Item.

None.



SEPTEMBER 2003 AGENDA

SUBJECT	X	ACTION
<i>No Child Left Behind (NCLB) Act of 2001</i> - Including, but not limited to, Update on Consolidated Application.	X	INFORMATION
		PUBLIC HEARING

Recommendation:

Hear an update on NCLB activities and any NCLB Liaison Team recommendations. Take action as deem necessary and appropriate.

Summary of Previous State Board of Education Discussion and Action

This standing item will allow California Department of Education (CDE) and State Board of Education (SBE) staff to brief the board on timely topics related to NCLB.

Summary of Key Issue(s)

The September submission for the Consolidated State Application contains baseline data and performance targets on the following topics:

- English proficiency for English Learners
- Highly Qualified Teachers
- Persistently Dangerous Schools
- Graduation Rates

The Board has discussed and approved policies on all these issues. The September submission is the final submission of the Consolidated Application.

Fiscal Analysis (as appropriate)

N/A

Attachment(s)

None

After consultation with the State Board liaisons, a copy of the submission will be forwarded to Board Members and posted on the CDE NCLB web site.



2003 Adequate Yearly Progress Results Phase I

Schools With 100 or More Enrolled in Grades 2-8 and 10								
Schools	Elementary		Middle		High Schools		All Schools	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Made AMOs and Participation Rates	3,332	66.1	381	32.5	213	22.8	3,926	54.9
Failed Only Participation Rates	408	8.1	56	4.8	608	65.0	1,072	15.0
Below AMOs Only	1,170	23.2	585	50.0	17	1.8	1,772	24.8
Below AMO and Participation Rates	128	2.5	149	12.7	98	10.5	375	5.2
All Schools	5,038	100.0	1,171	100.0	936	100.0	7,145	100.0

Title I Only Schools With 100 or More Enrolled in Grades 2-8 and 10								
Schools	Elementary		Middle		High Schools		All Schools	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Made AMOs and Participation Rates	1,945	57.8	150	21.7	65	18.7	2,160	49.0
Failed Only Participation Rates	227	6.7	27	3.9	216	62.1	470	10.7
Below AMOs Only	1,085	32.3	408	59.0	12	3.4	1,505	34.2
Below AMO and Participation Rates	107	3.2	107	15.5	55	15.8	269	6.1
All Schools	3,364	100.0	692	100.0	348	100.0	4,404	100.0



2003 Title I Public Schools

Schools Not In Program Improvement

Title I Schools Exiting from Program Improvement in 2003	166
Title I Schools Not in Program Improvement in 2002 or 2003	3,794
Total	3,960

Schools In Program Improvement

Title I Schools New to Program Improvement Year 1	571
Title I Schools Advancing to Year 2	177
Title I Schools Advancing to Year 3	300
Title I Schools Advancing to Year 4	12
Title I Schools Remaining in Same Year	75
Total	1135

Title I Public Schools with Complete STAR data	5,095
Title I Public Schools with Incomplete STAR data	473
TOTAL	5568



SEPTEMBER 2003 AGENDA

SUBJECT	X	ACTION
<i>No Child Left Behind Act of 2001</i> – Approve Local Educational Agency Plans (required by Section 1112)	X	INFORMATION
		PUBLIC HEARING

Recommendation:

Staff recommends approval of Local Educational Agency (LEA) Plans that have met the requirements to change from provisional to full approval status.

Summary of Previous State Board of Education Discussion and Action

At its July 2003 meeting, the State Board of Education approved 1,040 LEA Plans. Of this total, 645 received full approval. The remaining 395 LEA Plans received provisional approval pending receipt of additional Plan information. These LEAs have until Friday, August 29, 2003 to complete their Plans. After this date, LEAs with incomplete Plans will not be eligible to receive federal education categorical aid until they receive SBE full approval at a later date.

Summary of Key Issue(s)

The Last Minute memorandum will include an attachment which lists the LEA Plans from districts, county offices of education, and direct funded charter schools that changed from provisional approval status to recommendation for full approval.

Fiscal Analysis (as appropriate)

LEAs with incomplete Plans will not be eligible to receive federal education categorical aid until they receive SBE full approval of their Plans at a later date.

Attachment(s)

Attachments will be submitted with the Last Minute memorandum.

Last Minute Memorandum

To: STATE BOARD MEMBERS

Date: September 5, 2003

From: Geno Flores, Deputy Superintendent
Assessment and Accountability Branch

Re: ITEM 4

Subject ***LOCAL EDUCATIONAL AGENCY PLANS REQUIRED BY SECTION 112
OF THE NO CHILD LEFT BEHIND ACT OF 2001***

Attached for Board approval are two lists of **358** LEA Plans for district and county offices of education and for direct-funded charter schools. These Plans are required under No Child Left Behind (NCLB) so that LEAs may receive federal categorical aid for educational programs.

With the Board's approval of these **358** Plans, **1,005** LEAs will have fully approved Plans. In July, the Board fully approved **647** Plans.

CDE staff continues to work with the 152 LEAs (99 districts/counties and 53 charter schools) whose Plans are not yet ready for recommendation to the SBE for approval. There are 47 remaining LEAs (25 district/counties and 22 charter schools) that have not yet submitted LEA Plans. Staff will be working with these LEAs to obtain their Plans for review and future recommendation for Board approval.

Please see the following attachments.

Attachment 1: [Districts and COE LEA Plans \(Pages 1 of 6\)](#)

Attachment 2: [Charter Schools LEA Plans \(Pages 1 of 2\)](#)

LEA_Plans 9-5-03

CD_CODE	SCH_CODE	NAME
*****	*****	*****
0110017	0000000	Alameda Co. Office Of Education
0161192	0000000	Hayward Unified
0161218	0000000	Mountain House Elementary
0161234	0000000	Newark Unified
0161259	0000000	Oakland Unified
0161291	0000000	San Leandro Unified
0175093	0000000	Dublin Unified
0210025	0000000	Alpine Co. Office Of Education
0261333	0000000	Alpine County Unified
0461440	0000000	Feather Falls Union Elementary
0461499	0000000	Manzanita Elementary
0473379	0000000	Pioneer Union Elementary School District
0510058	0000000	Calaveras Co. Office Of Education
0561564	0000000	Calaveras Unified
0561572	0000000	Mark Twain Union Elementary
0661598	0000000	Colusa Unified
0761713	0000000	Lafayette Elementary
0761739	0000000	Martinez Unified
0761754	0000000	Mt. Diablo Unified
0761770	0000000	Orinda Union Elementary
0761788	0000000	Pittsburg Unified
0961887	0000000	Gold Trail Union Elementary
0961895	0000000	Indian Diggings Elementary
0961903	0000000	Lake Tahoe Unified
0961952	0000000	Placerville Union Elementary
0961978	0000000	Rescue Union Elementary
1010108	0000000	Fresno Co. Office Of Education
1030782	0000000	Center For Advanced Research/Technology
1061994	0000000	Alvina Elementary
1062000	0000000	American Union Elementary
1062026	0000000	Big Creek Elementary
1062042	0000000	Burrel Union Elementary
1062117	0000000	Clovis Unified
1062125	0000000	Coalinga-Huron Joint Unified
1062240	0000000	Kingsburg Elementary Charter
1062257	0000000	Kingsburg Joint Union High
1062265	0000000	Kings Canyon Joint Unified
1062281	0000000	Laton Joint Unified
1062323	0000000	Monroe Elementary
1062331	0000000	Orange Center Elementary
1062356	0000000	Pacific Union Elementary
1062364	0000000	Parlier Unified
1062372	0000000	Pine Ridge Elementary
1062380	0000000	Raisin City Elementary
1062539	0000000	West Park Elementary
1073809	0000000	Firebaugh-Las Deltas Joint Unified
1073965	0000000	Central Unified
1073999	0000000	Kerman Unified
1075127	0000000	Mendota Unified
1075234	0000000	Golden Plains Unified

LEA_Plans 9-5-03

CD_CODE	SCH_CODE	NAME
1075275	0000000	Sierra Unified
1075408	0000000	Riverdale Joint Unified
1162638	0000000	Plaza Elementary
1162653	0000000	Stony Creek Joint Unified
1162661	0000000	Willows Unified
1262729	0000000	Bridgeville Elementary
1262737	0000000	Cuddeback Union Elementary
1262794	0000000	Fieldbrook Elementary
1262836	0000000	Garfield Elementary
1262851	0000000	Green Point Elementary
1262935	0000000	Maple Creek Elementary
1262968	0000000	Orick Elementary
1262976	0000000	Pacific Union Elementary
1263008	0000000	Rio Dell Elementary
1263032	0000000	South Bay Union Elementary
1263040	0000000	Southern Humboldt Joint Unified
1263057	0000000	Trinidad Union Elementary
1275382	0000000	Mattole Unified
1275515	0000000	Eureka City Unified
1363099	0000000	Calexico Unified
1363107	0000000	Calipatria Unified
1363115	0000000	Central Union High
1363131	0000000	Heber Elementary
1363149	0000000	Holtville Unified
1363164	0000000	Imperial Unified
1363172	0000000	Magnolia Union Elementary
1363180	0000000	Mccabe Union Elementary
1363198	0000000	Meadows Union Elementary
1363206	0000000	Mulberry Elementary
1363222	0000000	Seeley Union Elementary
1410140	0000000	Inyo Co. Office Of Education
1463248	0000000	Big Pine Unified
1463255	0000000	Bishop Union Elementary
1463271	0000000	Death Valley Unified
1463289	0000000	Lone Pine Unified
1510157	0000000	Kern Co. Office Of Education
1563321	0000000	Bakersfield City Elementary
1563339	0000000	Beardsley Elementary
1563370	0000000	Buttonwillow Union Elementary
1563388	0000000	Caliente Union Elementary
1563404	0000000	Delano Union Elementary
1563420	0000000	Di Giorgio Elementary
1563479	0000000	Fruitvale Elementary
1563487	0000000	General Shafter Elementary
1563552	0000000	Lakeside Union School
1563578	0000000	Richland School District
1563594	0000000	Lost Hills Union Elementary
1563628	0000000	Maricopa Unified
1563677	0000000	Mojave Unified
1563685	0000000	Muroc Joint Unified
1563784	0000000	South Fork Union Elementary

LEA_Plans 9-5-03

CD_CODE	SCH_CODE	NAME
1563792	0000000	Standard Elementary
1563800	0000000	Taft City Elementary
1563818	0000000	Taft Union High
1563826	0000000	Tehachapi Unified
1563834	0000000	Vineland Elementary
1563842	0000000	Wasco Union Elementary
1573544	0000000	Rio Bravo-Greeley Union Elementary
1575168	0000000	El Tejon Unified
1663875	0000000	Armona Union Elementary
1663925	0000000	Hanford Joint Union High
1663958	0000000	Kit Carson Union Elementary
1710173	0000000	Lake Co. Office Of Education
1764022	0000000	Konocti Unified
1764030	0000000	Lakeport Unified
1764048	0000000	Lucerne Elementary
1810181	0000000	Lassen Co. Office Of Education
1864089	0000000	Big Valley Joint Unified
1964279	0000000	Azusa Unified
1964295	0000000	Bassett Unified
1964568	0000000	Glendale Unified
1964626	0000000	Hughes-Elizabeth Lakes Union Elementary
1964642	0000000	Keppel Union Elementary
1964691	0000000	Lawndale Elementary
1964733	0000000	Los Angeles Unified
1964758	0000000	Los Nietos Elementary
1964774	0000000	Lynwood Unified
1964790	0000000	Monrovia Unified
1964816	0000000	Mountain View Elementary
1964840	0000000	Norwalk-La Mirada Unified
1964865	0000000	Palos Verdes Peninsula Unified
1964873	0000000	Paramount Unified
1964931	0000000	Rosemead Elementary
1965045	0000000	Sulphur Springs Union Elementary
1965094	0000000	West Covina Unified
1965128	0000000	Whittier Union High
1965151	0000000	Wilsona Elementary
1973437	0000000	Compton Unified
2010207	0000000	Madera Co. Office Of Education
2065185	0000000	Bass Lake Joint Elementary
2065276	0000000	Raymond-Knowles Union Elementary
2110215	0000000	Marin Co. Office Of Education
2165342	0000000	Laguna Joint Elementary
2165367	0000000	Larkspur Elementary
2165375	0000000	Lincoln Elementary
2165425	0000000	Reed Union Elementary
2165433	0000000	Ross Elementary
2165466	0000000	San Rafael City High
2165474	0000000	Sausalito Marin City School District
2165482	0000000	Tamalpais Union High
2210223	0000000	Mariposa Co. Office Of Education
2365540	0000000	Anderson Valley Unified

LEA_Plans 9-5-03

CD_CODE	SCH_CODE	NAME
2365565	0000000	Fort Bragg Unified
2365581	0000000	Mendocino Unified
2365599	0000000	Point Arena Joint Union High
2373866	0000000	Potter Valley Community Unified
2465722	0000000	Le Grand Union Elementary
2465763	0000000	Mcswain Union Elementary
2465789	0000000	Merced Union High
2465813	0000000	Plainsburg Union Elementary
2465862	0000000	Weaver Union Elementary
2473726	0000000	Merced River Union Elementary
2573585	0000000	Modoc Joint Unified
2610264	0000000	Mono Co. Office Of Education
2765961	0000000	Alisal Union Elementary
2765961	0000000	Bradley Union Elementary
2766084	0000000	Mission Union Elementary
2766225	0000000	Spreckels Union Elementary
2866241	0000000	Calistoga Joint Unified
2966324	0000000	Clear Creek Elementary
2966332	0000000	Grass Valley Elementary
2966381	0000000	Pleasant Valley Elementary
3066423	0000000	Anaheim Elementary
3066449	0000000	Brea Olinda Unified School District
3066530	0000000	Huntington Beach City Elementary
3066563	0000000	La Habra City Elementary
3066589	0000000	Magnolia Elementary
3066597	0000000	Newport-Mesa Unified
3066621	0000000	Orange Unified
3073650	0000000	Irvine Unified
3166761	0000000	Ackerman Elementary
3166795	0000000	Colfax Elementary
3166829	0000000	Eureka Union Elementary
3166837	0000000	Foresthill Union Elementary
3166860	0000000	Ophir Elementary
3175085	0000000	Rocklin Unified
3366985	0000000	Banning Unified
3367041	0000000	Desert Center Unified
3467322	0000000	Elverta Joint Elementary
3467330	0000000	Folsom-Cordova Unified
3467330	0000000	Galt Joint Union Elementary
3467405	0000000	Rio Linda Union Elementary
3467447	0000000	San Juan Unified
3475283	0000000	Natomas Unified
3567470	0000000	Hollister School District
3567504	0000000	North County Joint Union Elementary
3567579	0000000	Willow Grove Union
3667645	0000000	Central Elementary
3667819	0000000	Ontario-Montclair Elementary
3667876	0000000	San Bernardino City Unified
3667892	0000000	Trona Joint Unified
3667934	0000000	Victor Valley Union High
3675069	0000000	Upland Unified

CD_CODE	SCH_CODE	NAME
3767975	0000000	Bonsall Union Elementary
3767983	0000000	Borrego Springs Unified
3768007	0000000	Cardiff Elementary
3768031	0000000	Coronado Unified
3768056	0000000	Del Mar Union Elementary
3768080	0000000	Encinitas Union Elementary
3768106	0000000	Escondido Union High
3773551	0000000	Carlsbad Unified
3775416	0000000	Warner Unified
3968536	0000000	Holt Union Elementary
3968577	0000000	Linden Unified
4010405	0000000	San Luis Obispo Co. Off. Of Education
4068809	0000000	San Luis Coastal Unified
4168858	0000000	Bayshore Elementary
4168924	0000000	Jefferson Union High
4168932	0000000	Laguna Salada Union Elementary
4169013	0000000	San Bruno Park Elementary
4269153	0000000	Casmalia Elementary
4269245	0000000	Los Olivos Elementary
4269252	0000000	Montecito Union Elementary
4269310	0000000	Santa Maria Joint Union High
4310439	0000000	Santa Clara Co. Off. Of Education
4369377	0000000	Berryessa Union Elementary
4369583	0000000	Morgan Hill Unified
4369591	0000000	Mountain View-Whisman Elementary
4369609	0000000	Mountain View-Los Altos Union High
4369674	0000000	Santa Clara Unified
4469815	0000000	Santa Cruz City Elementary
4469823	0000000	Santa Cruz City High
4469849	0000000	Soquel Union Elementary
4569856	0000000	Anderson Union High
4569955	0000000	Cottonwood Union Elementary
4570011	0000000	Happy Valley Union Elementary
4570052	0000000	Millville Elementary
4570086	0000000	Oak Run Elementary
4570128	0000000	Shasta Union Elementary
4570169	0000000	Whitmore Union Elementary
4573700	0000000	Mountain Union Elementary
4770193	0000000	Bogus Elementary
4770268	0000000	Etna Union Elementary
4770292	0000000	Forks Of Salmon Elementary
4970599	0000000	Alexander Valley Union Elementary
4970607	0000000	West Sonoma County Union High
4970722	0000000	Guerneville Elementary
4970730	0000000	Harmony Union Elementary
4970763	0000000	Horicon Elementary
4970821	0000000	Montgomery Elementary
4970847	0000000	Old Adobe Union Elementary
4970870	0000000	Piner-Olivet Union Elementary
4970904	0000000	Roseland Elementary
4970953	0000000	Sonoma Valley Unified

LEA_Plans 9-5-03

CD_CODE	SCH_CODE	NAME
5071142	0000000	Knights Ferry Elementary
5071167	0000000	Modesto City Elementary
5071233	0000000	Roberts Ferry Union Elementary
5071290	0000000	Sylvan Union Elementary
5071308	0000000	Turlock Joint Elementary
5071316	0000000	Turlock Joint Union High
5171373	0000000	East Nicolaus Joint Union High
5171399	0000000	Live Oak Unified
5171407	0000000	Marcum-Illinois Union Elementary
5171423	0000000	Nuestro Elementary
5171431	0000000	Pleasant Grove Joint Union Elementary
5171449	0000000	Sutter Union High
5171456	0000000	Winship Elementary
5210520	0000000	Tehama Co. Office Of Education
5271563	0000000	Lassen View Union Elementary
5271589	0000000	Manton Joint Union Elementary
5410546	0000000	Tulare Co. Office Of Education
5471829	0000000	Buena Vista Elementary
5471837	0000000	Burton Elementary
5471845	0000000	Citrus South Tule Elementary
5471902	0000000	Earlimart Elementary
5471928	0000000	Exeter Union High
5471944	0000000	Hope Elementary
5471985	0000000	Liberty Elementary
5472017	0000000	Oak Valley Union Elementary
5472082	0000000	Richgrove Elementary
5472090	0000000	Rockford Elementary
5472140	0000000	Stone Corral Elementary
5472165	0000000	Strathmore Union High
5472199	0000000	Terra Bella Union Elementary
5472249	0000000	Tulare Joint Union High
5472264	0000000	Waukena Joint Union Elementary
5472272	0000000	Woodlake Union Elementary
5572330	0000000	Chinese Camp Elementary
5572405	0000000	Summerville Elementary
5610561	0000000	Ventura Co. Office Of Education
5672546	0000000	Oxnard Union High
5672553	0000000	Pleasant Valley School
5672595	0000000	Santa Paula Union High
5673759	0000000	Conejo Valley Unified
5872751	0000000	Wheatland Elementary

Charter Schools LEA Plans

0161259	0130666	Lionel Wilson College Preparatory Academy
0175622	0130617	Oakland Military Institute
1062166	1030642	School Of Unlimited Learning
1062166	1030667	New Millenium Charter
1062166	1030733	Fresno Prep Academy
1062166	1030840	Carter G. Woodson Public Charter school
1062166	6118095	Cornerstone Academy
1062174	1030774	W.E.B. DuBois Public Charter School
1062174	1030865	One step Up Charter Academy
1062539	6112387	West Park Charter Academy
1262927	1230150	Pacific View Charter
1575630	1530500	Ridgecrest Charter
1910199	6116883	Odyssey Charter
1964246	1996347	Henry Hearn Charter School of Academic Excellence
1964709	1996313	Animo Leadership High
1964725	6118269	New City School
1964733	1996594	Discovery Charter Preparatory School
1964733	1996610	Los Angeles Leadership Academy
1964733	6017016	Fenton Avenue Charter School
1964733	6019079	Santa Monica Boulevard Community Charter
1964733	6019715	Vaughn Next Century Learning Center
1964733	6114912	Watts Learning Center Charter School
1964733	6119044	Multicultural Learning Center
1964733	6119424	Camino Nuevo Charter Academy - Middle School
1964733	6120471	Puente Charter School
1975671	1996586	Animo Inglewood Charter High School
2365615	2330413	Redwood Academy of Ukiah
2365615	2330421	Black Oak Charter School
2573585	2530129	Modoc Charter
2766092	2730240	Learning for Life Charter School
2766092	6118962	International School Of Monterey
3066670	3030723	Orange County High School Of The Arts
3066670	3030780	Albor Charter School
3066670	6119127	El Sol Santa Ana Science And Arts Charter Aca
3375192	3330917	Temecula Preparatory
3432276	3430642	California Education Authority
3667827	3631041	California Charter Academy Of Oro Grande
3667876	3630993	Provisional Accelerated Learning Center
3673957	3630936	California Charter Academy
3673957	3631033	California Charter Academy Affiliate Programs
3675077	3631207	Academy for Academic Excellence
3710371	6119119	Literacy First Charter School
3768338	3730959	Charter School of San Diego
3768023	6037956	Feaster-Edison School District
3768023	6109771	Clear View Elementary
3768023	6116859	Arroyo Vista Charter School
3768130	3732732	Helix High School
3768189	6120901	Barona Indian Charter
3768338	3731189	Preuss School UCSD
3768338	6039457	Darnell E-Campus Charter School
3768338	6040018	Harriet Tubman Charter School
3768338	6120943	Promise Charter School

Charter Schools LEA Plans

3775614	6119275	All Tribes American Indian Charter
3868478	3830411	Leadership High (Char)
3910397	3930476	Venture Academy
3968585	6118921	River Oaks Charter School
4369427	4330676	San Jose Conservation Corps Charter
4369427	4330726	Escuela Popular Accelerated Family Learning
4970862	6120927	Mary Collins School/Cherry Valley
4970912	6113278	Santa Rosa Charter School
4970912	6116958	Kid Street Charter
5010504	0101501	Archway Academy
5071164	5030275	Gold Rush Home Study Charter School
*****	*****	*****



SEPTEMBER 2003 AGENDA

SUBJECT <i>No Child Left Behind Act of 2001 – Approve Supplemental Educational Service Providers (required by Title I, Section 1116(e))</i>	X	ACTION
	X	INFORMATION
		PUBLIC HEARING

Recommendation:

Staff recommends approval of the list of providers for supplemental educational services.

Summary of Previous State Board of Education Discussion and Action

The State Board of Education (SBE) approved, at the May 2003 meeting, the emergency regulations, annual notice to potential providers and the revised providers’ application. At the June 2003, meeting the SBE approved 21 providers. In July 2003, the SBE approved 80 additional providers.

Summary of Key Issue(s)

Supplemental educational services to low-achieving, low-income students are required by Section 1116(e) of the No Child Left Behind (NCLB) Act of 2001. The California Department of Education (CDE) is responsible for establishing a list of approved providers, as described in Section 1116(e)(4) of NCLB.

Supplemental educational services include “tutoring and other academic enrichment services” that are:

- Chosen by parents
- Provided outside the school day
- Research-based
- High quality
- Designed specifically to increase the academic achievement of eligible children

The application process occurs on an on-going basis. CDE evaluates each application against a four-point rubric based on the SBE-adopted criteria. Each application must address the following four elements of the criteria:

- Element I. Program
- Element II. Staff
- Element III. High Quality Research and Program Effectiveness
- Element IV. Evaluation/Monitoring

CDE also considers the June 2003 results of the contracted West Ed. Survey about supplemental educational services for re-applicants. CDE then recommends applicants for approval by the SBE.

Fiscal Analysis (as appropriate)

Federal revenues are apportioned to LEAs to support the use of supplemental educational services. LEAs must use a minimum of 5 percent and a maximum of 15 percent of the Title I, Part A allocation for supplemental educational services, unless a lesser amount is needed. Title V, Part A Innovative Program funds can be also used to support supplemental educational services.

Attachment(s)

A list of recommended supplemental providers will be attached to the Last Minute memorandum.

Last Minute Memorandum

To: STATE BOARD MEMBERS

Date September 2, 2003

From: Geno Flores, Deputy Superintendent

Re: ITEM 5

Subject NO CHILD LEFT BEHIND ACT OF 2001 - APPROVE SUPPLEMENTAL
EDUCATIONAL SERVICES PROVIDERS (REQUIRED BY TITLE 1,
SECTION 1116(E))

The attached item includes a list of 37 applicants recommended for approval as supplemental educational services providers. Each applicant was evaluated against a four point rubric based on the State Board Education adopted criteria. During this application period, 39 applications were received. Two remain incomplete and will be provided technical assistance.

Cohort 5 Supplemental Educational Services Providers

1. Applicant: A Tutoring Place

Contact: Judy Muetz
2781 Stonecrest Court
Placerville, CA 95667
530 642-3018
530 622-8317-Fax
mmuet@cwnet.com

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides tutorial services in El Dorado County, Placerville area, in English language, arts, and mathematics, grades 9-12, after school.

2. Applicant: ACE Tutoring Services, Inc.

Contact: Jeff Want
18780 Amar Rd. # 207
Walnut, CA 91789
626 965-5751
909 279-9575-Fax
acetutoring@cs.com

Status:
New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides tutorial services in Southern California in mathematics, reading, writing, grammar, social studies, science, test preparation ESL, study skills for grades K-12, after school 1:1 and small groups.

Cohort 5 Supplemental Educational Services Providers

3. Applicant: Advanced Reading, LLC DBA UROK Learning

Contact: Dena Chambers
2655 Camino Del Rio North, Ste. 115
San Diego, CA 92108
619 299-2282
619 491-3198-Fax
chambers@uroklearning.com

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides after school tutorial services in San Diego County districts; reading, English language, arts; grades K-12, 1:1 and small groups.

4. Applicant: AlterMedX Health System

Contact: Gregory S. Alter
1600 S. Main Street, Ste. 260
Walnut Creek, CA 94596
925 280-9100
510 217-3588-Fax
alter@altermedx.com

Status:
New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides 1:1 sessions to improve attention and cognitive ability in reading, English language, arts, and mathematics for special need students in Contra Costa and Alameda counties.

Cohort 5 Supplemental Educational Services Providers

5. Applicant: Bakersfield City School

Contact: Barbara Williams
1300 Baker Street
Bakersfield, CA 93305
661 631-4744
661 631-4643-Fax
williamsb@bcsd.com

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides district tutorial services in reading for grades K-8, after school/ Saturday 1:1, 1:5.

6. Applicant: Bellflower Unified

Contact: Jeanette Johnson
16703 South Clark Avenue
Bellflower, CA 90706
562 755-6106
562 804-6590-Fax
jjohnson@busd.k12.ca.us

Status:
New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides district tutorial services in English language, arts, and mathematics in grades 2-11, after school in small groups.

Cohort 5 Supplemental Educational Services Providers

7. Applicant: Bresee Foundation

Contact: Rev. Jeff Carr
184 South Bimini Place
Los Angeles, CA 90004
213 387-2822, x166
213 385-8482-Fax
jcarr@bresee.org

Status:
New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides tutorial services in (LAUSD) in English language, arts, mathematics, algebra I, geometry, algebra II, trigonometry, mathematical analysis probability/statistics calculus, online services for grades 6-12, after school Youth Center hours 3pm-7pm, 1:1, and small groups.

8. Applicant: Cajon Valley Union

Contact: Alice J. Rodriguez
189 Roanoke Road, P.O. Box 1007
El Cajon, CA 92022-1007
619 588-3278
619 579-4800-Fax
rodriguez@cajonvalley.net

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides district tutorial services in English language, arts, and mathematics for grades K-8, after school, 1:1 and small groups.

Cohort 5 Supplemental Educational Services Providers

9. Applicant: California Institute on Human Services

Contact: Julie McClure
1801 East Cotati Avenue
Rohnert Park, CA 94928
707 664-4232
707 664-2417-Fax
julie.mcclure@sonoma.edu

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides Sonoma County Region 1 tutorial services in literacy, mathematics, homework. Services target at risk students; after school and small groups.

10. Applicant: California Learning Center

Contact: Linda Bitter
760 San Ramon Valley Blvd.
Danville, CA 94526
925 828-7323
925 838-0751-Fax
linbit@aol.com

Status:
New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides district (San Ramon) tutorial services in English language, arts, and mathematics for grades K-12, after school, 1:1 and small groups.

Cohort 5 Supplemental Educational Services Providers

11. Applicant: Children's Empowerment, Inc.

Contact: Spencer Holeman
5401 Mission Street
San Francisco, CA 94112-3739
415 469-4800
415 469-4888-Fax
sh@ceisf.org

Status:
New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides computer based, online/offline tutorial services in the Bay Area districts in English language and mathematics for grades K-12, after school, evenings and Saturdays.

12. Applicant: Club Z

Contact: Marti Clark
988 Briarcrest Way
Sacramento, CA 95831
916 391-0132
916 391-9179-Fax
mstoffers17@yahoo.com

Status:
New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides in home tutoring services, statewide tutorial services in reading, writing, mathematics, and all core subjects, plus study skills for grades K-12 and adults. Flexible scheduling is available before/after school, evenings, weekends, summers, 1:1 in students home, or public accommodations.

Cohort 5 Supplemental Educational Services Providers

13. Applicant: Compass Learning

Contact: David E. Huck
7878 North 16th Street, Ste. 100
Phoenix, AZ 85020
800 422-4339,x2251
602 230-7034-Fax
bids@compasslearning.com

Status:

New: No
Re-Applied: YES
Web Based: YES

Program Description:

Provides statewide online tutorial service, prek-8 grades in English language, arts, science, and social studies.

14. Applicant: Cornerstone Learning Center

Contact: Thomas A. Miles
P.O. Box 3223
Quincy, CA 95971
530 283- 9396
530 283-6508-Fax
rockosaurus@hotmail.com

Status:

New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides countywide tutorial services in Plumas County in reading, English language, arts, mathematics, and science 1:1 and small groups.

Cohort 5 Supplemental Educational Services Providers

15. Applicant: Delano Joint Union High School District

Contact: Dr. Efrain Rodriguez
1747 Princeton Street
Delano, CA 93215
661 720-4125
661 720-4298-Fax
efrodri@zeus.kern.org

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides district tutorial services in northern and southern Kern counties for grades 9-12 in ELD, English language, arts, mathematics, science, and social studies; after school in small group sessions.

16. Applicant: EdSolutions, Inc.

Contact: Jubal C. Yennie
131 Belle Forest Circle, Ste 210
Nashville, CA 37221
615 673-6917
615 673-6921-Fax
jyennie@edsolutionsinc.com

Status:
New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides statewide; extended time tutorial services in reading, and mathematics for grades K-8.

Cohort 5 Supplemental Educational Services Providers

17. Applicant: Educational Change Management

Contact: Clyde O. Balaam
4832 Sherlock Way
Carmichael, CA 95608
916 359-4832
916 359-4832-Fax

Status:
New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides tutorial services in Washington Unified School District and Sacramento City Unified in reading, writing, mathematics, and study skills for grades K-12, after school in small groups.

18. Applicant: El Dorado County Office of Education

Contact: Kate Doyle
6767 Green Valley Road
Placerville, CA 95667
530 295-2241
530 621-4274-Fax
kdoyle@edcoe.k12.ca.gov

Status:
New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides countywide tutorial services in reading and mathematics for grades 1-12, after school 1:1 and small groups.

Cohort 5 Supplemental Educational Services Providers

19. Applicant: Elk Grove Unified School District

Contact: Nancy Lucia
9510 Elk Grove-Florin Road
Elk Grove, CA 95624
916 686-7712
916 686-5095-Fax

Status:

New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides district tutorial services in reading, English language, arts, and mathematics for grades 2-6, tutoring occurs four days per week, 1:1 and small groups.

20. Applicant: Encourage Tomorrow

Contact: Suzanne Moreno
1067 No. Fulton Street
Fresno, CA 93728
559 233-2880
559 233-2870-Fax
suzanne@encouragetomorrow.org

Status:

New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides comprehensive tutorial and co-curricula educational programs in reading, writing, and basic mathematics in Fresno County, grades K-12, after school, 1:1 and small groups.

Cohort 5 Supplemental Educational Services Providers

21. Applicant: Focus 92411 Neighborhood

Contact: Richard Eberst
1859 North Western Avenue
San Bernardino, CA 92411
909 806-1544
scttlscptt@aol.com

Status:

New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides tutorial services to the Westside Community in San Bernardino in English language, arts, and mathematics for grades k-8, after school 1:1.

22. Applicant: JRL Enterprises, Inc.

Contact: John "Jay" Wehrer
3520 Gen. DeGaulle Drive, Ste. 1100
New Orleans, LA 70114
504 263-4205
504 263-1545-Fax
jwehrer@icanlearn.com

Status:

New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides statewide individualized computer assisted tutorial services for grade 5-12, mathematics, math essentials, pre-algebra, algebra, 1:1 and small groups.

Cohort 5 Supplemental Educational Services Providers

23. Applicant: Lightspan, Inc.

Contact: Nancy Aria
10140 Campus Point Drive
San Diego, CA 92121
858 824-8109
858 824-8010-Fax

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides statewide tutorial services in all subjects for grades K-8, on a CD Rom.

24. Applicant: Long Beach Unified School District

Contact: Carolyn Jensen
1515 Hughes Way
Long Beach, CA 90810
562 997-8310
562 997-8302-Fax
cjensen@lbusd.k12.ca.us

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides district tutorial services in English language, arts, and mathematics for grades 1-8, before/after school, Saturdays, intercession, and summer school.

Cohort 5 Supplemental Educational Services Providers

25. Applicant: Monterey Peninsula Unified

Contact: Martha Froke
200 Coe Avenue, Room 5
Seaside, CA 93955
831 899-1966
831 899-0889-Fax
mfroke@mpusd.k12.ca.us

Status:
New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides district tutorial services for grades K-8 in reading, English language, arts, mathematics, social science, science, creative arts, computer technology and physical education in small groups.

26. Applicant: Netwon Learning

Contact: Dan Loon
521 Fifth Avenue. 11th Floor
New York, NY 10175
316 744-3896
316 734-7597-Fax
daloon@edisonschools.com

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides a unique statewide tutorial services for grades K-12, after school care, academic boost diagnostic approach in reading and mathematics. All sessions occur in small groups.

Cohort 5 Supplemental Educational Services Providers

27. Applicant: Pajaro Valley Unified

Contact: Mark S. Rogers
294 Green Valle Road
Watsonville, CA 95076
831 786-2100
831 786-2331-Fax
mark_rogers@pvusd.net

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides district tutorial services in English language, arts, and reading for grades 2-8, after school in small groups.

28. Applicant: STAR, Inc.

Contact: Sherry Weld
10101 Jefferson Boulevard
Culver City, CA 90230
310 842-8040, x12
310 842-8280-Fax
star_mathplus@yahoo.com

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides statewide tutorial services in mathematics, literacy tutoring for grades 1-12, after school in small groups.

Cohort 5 Supplemental Educational Services Providers

29. Applicant: San Bernardino City Unified

Contact: Don Beard
777 North F. Street
San Bernardino, CA 92410
909 381-1256
909 889-7576-Fax
don.beard@sbcusd.k12.ca.us

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides district tutorial services in reading fluency/comprehension skills, grades 1-12, after school and small groups.

30. Applicant: San Francisco Unified School District

Contact: Trish Bascom
1515 Quintara Street
San Francisco, CA 94116
415 242-2615
415 242-2618-Fax
tbascom@muse.sfusd.edu

Status:
New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides district tutorial services in primary literacy, English language, arts, mathematics, science, history, and social studies for grades K-12, after school 1:1 and small groups.

Cohort 5 Supplemental Educational Services Providers

31. Applicant: Santa Clara Unified School District

Contact: Maria Elena Messina
1889 Lawrence Rod
Santa Clara, CA 95052
408 423-2098
408 423-2285-Fax
mmessina@scu.k12.ca.us

Status:
New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides district tutorial services in English language, arts, and mathematics, for grades K-5, after school and small groups.

32. Applicant: Target: Excellence Program

Contact: Keith Herron
7485 Rush River Drive, Ste. 710-249
Sacramento, CA 95831
916 393-4690
916 393-4690-Fax
Target_excellence@sbcglobal.net

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides district tutorial services in Sacramento/Los Angeles for grades K-12 in English language, arts, and mathematics, after school and weekends in small groups.

Cohort 5 Supplemental Educational Services Providers

33. Applicant: The Cullinan Education Center

Contact: Joanne Cullinan
6700 N. First, #117
Fresno, CA 93710
559 435-3276
559 435-7290-Fax
jc43learn@aol.com

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides regional tutorial services in Fresno, Madera, Kings and Tulare counties in English language, arts and reading, grades K-12, 1:1 multi modality after school.

34. Applicant: Trinity County Office of Education

Contact: C.F.L. Kidwell
P.O. Box 1256
Weaverville, CA 96093
530 623-2861,x253
530 623-4489-Fax
cfkidwell@tcoek12.org

Status:
New: YES
Re-Applied: No
Web Based: No

Program Description:

Provides countywide district tutorial support services in English language, arts, mathematics, science, history, and social science; 1:1 based on the independent study model.

Cohort 5 Supplemental Educational Services Providers

35. Applicant: UCLA Graduate School of Education Center X

Contact: Faye C. Peitzman
1320 Moore Hall
Los Angeles, CA 90095
310 825-6990
peitzman@gseis.ucla.edu

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides tutorial service for Los Angeles urban districts for middle and high school students participating in the university outreach program, emphasis in language arts and mathematics.

36. Applicant: Ukiah Unified School District

Contact: Dolores Fisette
925 North State
Ukiah, CA 95482
707 463-5213
707 463-2120-Fax
dfisette@uusd.net

Status:
New: Yes
Re-Applied: No
Web Based: No

Program Description:

Provides before/after school district tutorial services in English language, arts, grades K-6, 1:1.

Cohort 5 Supplemental Educational Services Providers

37. Applicant: Valley Center-Pauma Unified

Contact: Olivia Leschick
28751 Cole Grade Rd.
Valley Center, CA 92082
760 749-0464
760 749-1208-Fax

Status:
New: No
Re-Applied: YES
Web Based: No

Program Description:

Provides district tutorial services in reading, English language, arts, and mathematics in grades 1-8, after school Tuesday/Thursday.



SEPTEMBER 2003 AGENDA

SUBJECT	X	ACTION
<i>No Child Left Behind Act of 2001 - Supplemental Educational Service Providers – Adopt Proposed Title 5 Regulations</i>	X	INFORMATION
		PUBLIC HEARING

Recommendation:

Consider comments received during the public comment period and at the public hearing and take action to adopt the regulations.

Summary of Previous State Board of Education Discussion and Action

At the May 2003 State Board of Education (SBE) meeting, the Board took action to approve the proposed emergency regulations on supplemental educational services. The Board directed that, after the 45-day public review period, the public hearing be conducted by staff, with an audiotape of the proceeding and a staff-prepared summary and response to comments received be submitted to the Board. The public hearing was held on August 20, 2003.

Summary of Key Issue(s)

Supplemental educational services to low-achieving, low-income students are required by Section 1116(e) of the No Child Left Behind (NCLB) Act of 2001. The proposed regulations define “a demonstrated record of effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the state academic content standards and student achievement standards”(Section 1116(e)(4)(b).

Fiscal Analysis (as appropriate)

None

Attachment(s)

Attachment 1 [Proposed Regulations \(Pages 1-2\) can be found on the following Web site www.cde.ca.gov/regulations](http://www.cde.ca.gov/regulations)

Attachment 2 [Summary of Written and Public Hearing Comments \(Page 1 of 1\)](#)

1 (F) Meet all applicable federal, state, and local health, safety, and civil rights laws.

2 (G) Have knowledge of the state-adopted content standards, frameworks, and
3 instructional materials.

4 (H) Be capable of providing appropriate services to eligible students based on individual
5 needs consistent with the instructional program of the LEA and the state-adopted standards,
6 frameworks, and instructional materials.

7 (I) Be financially sound.

8 (J) Guarantee that all staff working with students and their parents undergo and pass
9 background checks as required by the local contracting school district.

10 (K) Abide by the conditions of the contract with the LEA.

11 (2) And, by the end of the second year of provisional approval, ninety-five percent of
12 eligible students receiving services have made increases in academic proficiency at a level
13 articulated in the supplemental educational services contract and as measured by the STAR.

14 NOTE: Authority cited: Section 33031, Education Code. Reference: 20 United States Code
15 section 6316(e)(1) and Section 12000, Education Code.

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31 6/18/03

State Board of Education
September 2003

Supplemental Educational Service Regulations

Summary of Written and Public Hearing Comments

As of August 21, 2003, no written comments have been received. Additionally there were no public comments received at the public hearing held on August 20, 2003.



SEPTEMBER 2003 AGENDA

SUBJECT	X	ACTION
Standardized Testing and Reporting (STAR) Program: Including, but not limited to, Update on STAR Program	X	INFORMATION
		PUBLIC HEARING

Recommendation:

The State Board of Education (SBE) will take action if necessary.

Summary of Previous State Board of Education Discussion and Action

This is a placeholder item placed on the agenda in the event that an update or action is warranted. The item will be withdrawn from the SBE Agenda if there is no update to provide the SBE, nor SBE action needed.

Summary of Key Issue(s)

None.

Fiscal Analysis (as appropriate)

None.

Attachment

- Attachment 1 [AYP Results Phase 1 \(Page 1 of 1\)](#)
- Attachment 2 [English Language Arts \(Page 1 of 1\)](#)
- Attachment 3 [Math Percent of all Students \(Page 1 of 1\)](#)
- Attachment 4 [Math Number of Students Tested \(Page 1 of 1\)](#)
- Attachment 5 [History Social Science \(Page 1 of 1\)](#)
- Attachment 6 [Science Tests Percent of all Students \(Page 1 of 1\)](#)
- Attachment 7 [Science Tests Number of Students \(Page 1 of 1\)](#)
- Attachment 8 [Percent of CA Students scoring \(Page 1 of 1\)](#)



2003 Adequate Yearly Progress Results Phase I

Schools With 100 or More Enrolled in Grades 2-8 and 10								
Schools	Elementary		Middle		High Schools		All Schools	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Made AMOs and Participation Rates	3,332	66.1	381	32.5	213	22.8	3,926	54.9
Failed Only Participation Rates	408	8.1	56	4.8	608	65.0	1,072	15.0
Below AMOs Only	1,170	23.2	585	50.0	17	1.8	1,772	24.8
Below AMO and Participation Rates	128	2.5	149	12.7	98	10.5	375	5.2
All Schools	5,038	100.0	1,171	100.0	936	100.0	7,145	100.0

Title I Only Schools With 100 or More Enrolled in Grades 2-8 and 10								
Schools	Elementary		Middle		High Schools		All Schools	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Made AMOs and Participation Rates	1,945	57.8	150	21.7	65	18.7	2,160	49.0
Failed Only Participation Rates	227	6.7	27	3.9	216	62.1	470	10.7
Below AMOs Only	1,085	32.3	408	59.0	12	3.4	1,505	34.2
Below AMO and Participation Rates	107	3.2	107	15.5	55	15.8	269	6.1
All Schools	3,364	100.0	692	100.0	348	100.0	4,404	100.0



California Standards Test Results 2001-2003

PERCENT OF ALL STUDENTS SCORING AT OR ABOVE PROFICIENT

ENGLISH LANGUAGE ARTS TESTS				
Grade	2001	2002	2003	CHANGE 2001-2003
2	32	32	36	4
3	30	34	33	3
4	31	36	39	8
5	28	31	36	8
6	31	31	36	5
7	34	33	36	2
8	32	32	31	-1
9	28	33	38	10
10	31	33	33	2
11	29	31	32	3



California Standards Test Results
2001-2003

PERCENT OF ALL STUDENTS SCORING AT OR ABOVE PROFICIENT

MATHEMATICS TESTS				
Grade/Test	2001	2002	2003	CHANGE 2001-2003
2	40	43	53	13
3	38	38	46	8
4	33	38	45	12
5	30	29	35	5
6	31	32	34	3
7	29	30	30	1
Algebra I	21	22	21	0
Geometry	30	29	26	-4
Algebra II	28	26	29	1
1st Year Integrated	10	7	7	-3
2nd Year Integrated	18	25	28	10
3rd Year Integrated	20	21	21	1
General Mathematics	NA	16	20	--
High School Summative Math	37	40	43	6



California Standards Test Results
2001-2003

MATHEMATICS TESTS				
Number of Students Tested				
Grade/Test	2001	2002	2003	CHANGE 2001-2003
Algebra I	366,633	422,194	491,579	124,946
Geometry	213,795	240,500	263,104	49,309
Algebra II	126,997	148,309	158,619	31,622
1st Year Integrated	42,732	24,056	13,919	-28,813
2nd Year Integrated	28,446	24,746	9,440	-19,006
3rd Year Integrated	17,909	15,387	9,693	-8,216
General Mathematics	NA	448,150	435,695	--
High School Summative Math	51,792	70,577	74,010	22,218
Total	848,304	1,393,919	1,456,059	607,755



California Standards Test Results
2001-2003

PERCENT OF ALL STUDENTS SCORING AT OR ABOVE PROFICIENT

HISTORY-SOCIAL SCIENCE TESTS				
Grade	2001	2002	2003	CHANGE 2001-2003
8	NA	NA	28	--
10	24	24	27	3
11	31	31	34	3



California Standards Test Results 2001-2003

PERCENT OF ALL STUDENTS SCORING AT OR ABOVE PROFICIENT

SCIENCE TESTS				
TEST	2001	2002	2003	CHANGE 2001-2003
Earth Science	20	21	22	2
Biology	34	37	37	3
Chemistry	28	29	31	3
Physics	30	28	29	-1
Int. 1	NA	NA	7	--
Int. 2	NA	NA	8	--
Int. 3	NA	NA	7	--
Int. 4	NA	NA	12	--



California Standards Test Results
2001-2003

SCIENCE TESTS				
Number of Students Tested				
DISCIPLINE	2001	2002	2003	CHANGE 2001-2003
Earth Science	69,255	80,018	86,209	16,954
Biology	269,602	288,452	322,705	53,103
Chemistry	132,908	144,930	149,463	16,555
Physics	33,123	41,759	44,452	11,329
Int. 1	25,142	16,459	59,300	34,158
Int. 2	49,455	38,988	25,842	-23,613
Int. 3	39,714	57,086	10,608	-29,106
Int. 4	24,808	25,468	1,513	-23,295
Total	644,007	693,160	700,092	56,085

Percent of California students scoring at or above the
50th National Percentile on the California Achievement Tests,
Sixth Edition Survey (CAT/6), Spring 2003

Grade	Reading	Language	Spelling	Mathematics	Science
2	46	41	53	57	NA
3	34	42	53	52	NA
4	35	43	56	48	NA
5	41	44	50	49	NA
6	45	40	49	51	NA
7	45	41	53	46	NA
8	41	43	49	48	NA
9	50	49	NA	46	47
10	49	49	NA	52	47
11	47	47	NA	47	49

The California Parent Report

Dear Parent/Guardian,

Each year the California STAR (Standardized Testing and Reporting) Program measures your child's progress in English Language Arts and Math. We are providing this report to ensure that the results are useful to you and your child.

Make sure your child has the support he or she needs to succeed. Every elementary school student should have a textbook, regular homework, and a safe school in which to learn.

Sincerely,

JACK O'CONNELL
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

Student # **000032291**

DOB **2/12/93**

Grade **4**

Test date **4/02**

Teacher **Michaelson**

School **Johnson Elementary School**

District **Langeberg Unified**



For the parents of:

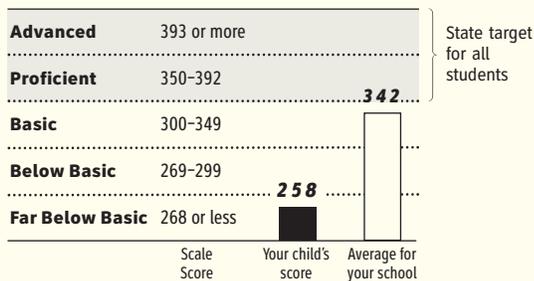
Bianca Smith

123 Main Street

Los Angeles, CA 90210

Your child's overall results on the California Standards Test

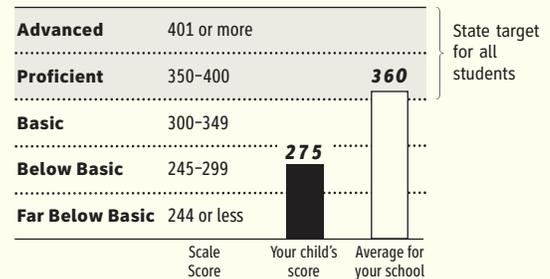
English Language Arts, GRADE 4



Your child scored **Far Below Basic** in English Language Arts.

This score suggests that your child lacks important reading skills necessary for success. You and your child's teacher should agree on an intensive program that ensures your child catches up.*

Math, GRADE 4



Your child scored **Below Basic** in Math.

This score suggests that your child does have some important math skills but needs to make more progress in order to meet standards. Make sure that your child does the additional work required to make progress in Math this year.*

Your child's scale scores of **258** in **ELA** and **275** in **Math** are based on the number of questions your child got right and wrong, combined with how difficult the questions on the test were. Scale scores make it easy for you to compare your child's results from year to year.

*DRAFT TEXT: This text will be used only for students who scored Far Below Basic and Below Basic.

How to help your child

1 Discuss this report with your child's teacher

2 Go to www.star.cde.ca.gov to find the STAR results for your child's school compared with statewide results

3 To see sample items from the test, go to www.cde.ca.gov/statests/star/augment/staritems.html



What are my child's strengths and needs?

English Language Arts, GRADE 4

CALIFORNIA STANDARDS	YOUR CHILD (◆) COMPARED TO PROFICIENT STUDENTS			PERCENT OF ITEMS CORRECT	NUMBER OF ITEMS
	LOWER	PROFICIENT STUDENTS	HIGHER		
Reading					
Word Analysis and Vocabulary Development	◆			24%	21
Reading Comprehension	◆			17%	18
Literary Response and Analysis	◆			27%	11
Writing					
Written Conventions	◆			28%	18
Writing Strategies	◆			32%	22
Writing Applications	The student's writing was illegible.			—	8

This information shows how your child's scores compare to the average scores for students in your school who scored **Proficient** in English Language Arts. This comparison is useful for understanding your child's strengths and needs.

Math, GRADE 4

CALIFORNIA STANDARDS	YOUR CHILD (◆) COMPARED TO PROFICIENT STUDENTS			PERCENT OF ITEMS CORRECT	NUMBER OF ITEMS
	LOWER	PROFICIENT STUDENTS	HIGHER		
Number Sense					
Decimals, Fractions, and Negative Numbers	◆			56%	16
Operations and Factoring		◆		60%	15
Algebra and Functions					
		◆		39%	18
Measurement & Geometry					
	◆			33%	12
Statistics, Data Analysis, and Probability					
	◆			25%	4

This information shows how your child's scores compare to the average scores for students in your school who scored **Proficient** in Math. This comparison is useful for understanding your child's strengths and needs.

More about the ELA Standards

In fourth grade, Bianca should have become a fluent reader. She reads and understands a variety of material (children's literature, magazines, and other materials) appropriate to her grade. She writes clear paragraphs for a range of audiences, and she spells correctly. She follows multistep directions, such as how to use computer commands, and writes detailed compositions.

By the time they graduate, California students must read and write well; speak persuasively and listen carefully; and understand the mechanics of language, such as grammar, spelling, and punctuation. To get there, students need to build their understanding and skills year by year.

For example, students of all ages should read on their own (in addition to their regular school reading), increasing the amount they read each year.

- By grade four, Bianca should read one-half million words a year on her own. That is at least one grade-appropriate, 50- to 70-page book (or an equal amount of newspaper, magazine or other reading) every week.
- By grade eight, Bianca should read one million words a year on her own. That is at least one grade-appropriate, 80- to 100-page book (or an equal amount of newspaper, magazine or other reading) every week.
- By grade 12, Bianca should read two million words a year on her own. That is at least two grade-appropriate, 80- to 100-page books (or an equal amount of newspaper, magazine or other reading) every week.

The complete California Academic Content Standards may be viewed and downloaded (without charge) at www.cde.ca.gov/standards/reading.

More about the Math Standards

In fourth grade, Bianca should have learned to read and write numbers in the millions; understand and place value of whole numbers and decimals; solve problems using addition, subtraction, multiplication and division; and measure perimeter and area. She should be able to collect, display, and analyze data to answer questions.

More about each content strand:

- **Number Sense:** This includes numbers and operations, and the ability to apply useful strategies to solve problems using addition, subtraction, multiplication and division, without the use of calculators.
- **Algebra and Functions:** This includes using symbols to understand patterns, solving problems involving functional relationships, and making generalizations.
- **Measurement and Geometry:** This includes knowing and using the units of measurement to compute, for example, the area and perimeter of an object. Students also use geometric shapes to show relationships and solve problems.
- **Statistics, Data Analysis, and Probability:** This includes organizing and comparing data to make informed conclusions, conducting probability experiments and making predictions.
- **Mathematical Reasoning:** This includes learning how to analyze problems, applying skills or strategies for finding solutions, and making generalizations.

The complete California Academic Content Standards may be viewed and downloaded (without charge) at www.cde.ca.gov/standards/math.

National comparison

In addition to the California content questions that measure your child's performance on standards, your child answered a number of test questions taken by students across the country. The number below shows your child's percentile. For example, in Reading/Language, your child scored as well as 22% of students nationwide and not as well as 78% of students nationwide.

Reading/Language	22
Spelling	38
Mathematics	35

0 Your child's Percentile 100

Reading at home and in school

Strong reading skills are critical for success in all school subjects. Encourage Bianca to read at home, and help her find books of interest.

To find recommended books based on Bianca's reading level, go to the California Reading List at www.cde.ca.gov/statetest/star/readinglist.html and select her reading list number which is **3**. You can also find the book list at Bianca's school or at any public library. This is not an exhaustive list. Rather, it shows the quality and complexity of material students should read, including both fiction and nonfiction books, plays, and poetry.

Based on Bianca's test results, one content area to focus on is **Reading Comprehension**. When Bianca is reading, ask questions to make sure she understands the book. After Bianca finishes a book, discuss what it was about.



SEPTEMBER 2003 AGENDA

SUBJECT Standardized Testing and Reporting (STAR) Program: Approve Commencement of the Rulemaking Process for Amendments to Title 5	X	ACTION
	X	INFORMATION
		PUBLIC HEARING

Recommendation:

Approve the proposed regulations, the Initial Statement of Reasons, and the Notice of Proposed Rulemaking and direct staff to commence the rulemaking process.

Summary of Previous State Board of Education Discussion and Action

SBE has adopted regulations for the STAR program.

Summary of Key Issue(s)

The regulations are being amended to do the following:

1. Add requirements for the California Alternate Performance Assessment (CAPA)
2. Modify district and STAR test site coordinator responsibilities to include reporting testing irregularities to the California Department of Education
3. Incorporate some provisions from the test examiner STAR Security Affidavit into the STAR Test Security Agreement signed by district and test site coordinators
4. Modify the apportionment requirements to have superintendents certify the accuracy of an apportionment report prepared by the Department rather than requiring them to compile the data required for the report
5. Add specific requirements for handling the STAR Reports
6. Modify test order and pre-identification information to conform to current procedures
7. Modify Article 3 for the Designated Primary Language Test to conform to changes being made for the Designated and Standards-Based Achievement Tests

Fiscal Analysis (as appropriate)

None

Attachment(s)

1. Draft of Initial Statement of Reasons
2. Draft of Notice of Proposed Rulemaking
3. Proposed Text of Regulations

Initial Statement of Reasons

SECTION 850.	DEFINITIONS
SECTION 852.	PUPIL EXEMPTIONS
SECTION 853.	ADMINISTRATION
SECTION 853.5	USE OF VARIATIONS, ACCOMMODATIONS AND MODIFICATIONS FOR THE STANDARDS-BASED ACHIEVEMENT TEST AND THE CALIFORNIA ALTERNATE PERFORMANCE ASSESSMENT
SECTION 859.	STAR TEST SECURITY AGREEMENT AND SECURITY AFFIDAVIT
	SPECIFIC PURPOSE OF THE PROPOSED AMENDED REGULATIONS

The proposed amendments are required for the state to meet requirements of the Elementary and Secondary Education Act legislation and legislative changes in the California Education Code that became effective January 1, 2003.

NECESSITY/RATIONALE

The Legislature adopted amended legislation for the Standardized Testing and Reporting Program (Education Code sections 60640 (e) and (j)(3)). Additionally, the California Department of Education entered into a Compliance Agreement with the United States Department of Education to meet specific requirements of the Elementary and Secondary Education Act. In addition to these, technical amendments are needed to strengthen security measures for the tests used within the Program.

Amended regulations are proposed to:

- Modify the definitions used for the Program to conform to changes made in the materials and terms used in the Program and to add additional terms that require definitions.
- Modify Pupil Exemptions to conform to new legislation.
- Enhance security for the Program by specifying who may administer the tests.
- Incorporate State Board of Education policy for out-of-level testing.
- Clarify testing variations, accommodations, and modifications that may be used on the tests and by which students.
- Add language to the STAR Test Security Agreement to enhance the security of the tests used in the Program.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Board received information from the test contractor on appropriate test variations, accommodations, modifications, and out-of-level testing for various subgroups of students. The Board received no formal empirical study, report or documents related to the proposed amendments to enhance the test security. The need for the proposed amendments is based on a six-year history for the Program.

REASONABLE ALTERNATIVE TO THE PROPOSED AMENDMENTS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

The proposed amendments could be handled through Board policy and contractor directions for administering the tests. However, doing so would leave some regulatory language in conflict with language in the California Education Code. This results in confusion for schools, districts, and county

offices of education in implementing the STAR Program. Schools, districts, and county offices of education also ask the California Department of Education to cite the specific regulations that cover the administration of the Program.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The State Board has not identified any alternatives that would lessen any adverse impact on small business.

EVIDENCE SUPPORT FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

The proposed regulations would not have a significant adverse economic impact on any business because they only apply to Local Educational Agencies and their subgrantees.

CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street; P.O. Box 944272
Sacramento, CA 95814-5901

**TITLE 5. EDUCATION****CALIFORNIA STATE BOARD OF EDUCATION****NOTICE OF PROPOSED RULEMAKING**

[Notice published _____, 2003]

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

The State Board will hold a public hearing beginning at ____ p.m. on _____, _____, 2003, at 1430 N Street, Room _____, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on _____, _____, 2003**. The Board will consider only written comments received by the Regulations Adoption Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
Telephone : (916) 319-0641 FAX: (916) 319-0155
E-mail: dstrain@cde.ca.gov

AUTHORITY AND REFERENCE

Authority: Sections 33031 and 60605, Education Code.

Reference: Sections 60615, 60640, 60642, and 60642.5, Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Education Code section 60605(f) states, “The State Board of Education shall adopt regulations for the conduct and administration of the testing and assessment program.” Section 60605(g) requires the State Board of Education to adopt a regulation for minimum-security procedures to ensure the security and integrity of test and assessment questions and materials.

The purpose of these amended regulations is to modify regulations previously adopted by the State Board of Education to:

- Modify the definitions used for the Program to conform to changes made in the materials and terms used in the Program and to add additional terms that require definitions.
- Modify Pupil Exemptions to conform to new legislation.
- Enhance security for the Program by specifying who may administer the tests.
- Incorporate State Board of Education policy for out-of-level testing.
- Clarify testing variations, accommodations, and modifications that may be used on the tests and by which students.
- Add language to the STAR Test Security Agreement to enhance the security of the tests used in the Program.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: To be determined.

Cost or savings to any state agency: To be determined

Costs to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: To be determined

Other non-discretionary cost or savings imposed on local educational agencies: To be determined

Cost or savings in federal funding to the state: To be determined

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: To be determined.

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

Adoption of these regulations will not:

- (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.

Significant effect on housing costs: To be determined

Affect on small businesses: There is no affect on small businesses because _____

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The State Board 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 substance of the proposed regulations should be directed to:

Geno Flores, Deputy Superintendent
California State Board of Education
1430 N Street, Room 5602
Sacramento, CA 95814
E-mail: Gflores@cde.ca.gov
Telephone: (916) 319-0812

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to Debra Strain, Regulations Adoption Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0584.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/regulations>.

1
2 **Title 5. EDUCATION**

3 **Division 1. State Department of Education**

4 **Chapter 2. Pupils**

5 **Subchapter 3.75. Standardized Testing and Reporting Program**

6 **Article 1. General**
7

8 *Amend Sections 850, 852, and 853 to read:*

9 **§ 850. Definitions.**

10 For the purposes of the Standardized Testing and Reporting (STAR) program, the following terms shall
11 have the following meanings unless the context indicates otherwise:

12 (a) “Designated achievement test” is the achievement test required by Education Code section 60640(b).
13 The designated achievement test includes test booklets, test answer documents, administration manuals, and
14 administrative materials, ~~and practice tests~~. The designated achievement test is to be administered in the
15 areas of reading, spelling, written expression and mathematics for pupils in grades 2 to 8, inclusive; and in
16 the core curriculum areas of reading, writing, mathematics, history/social science and science for pupils in
17 grades 9 to 11, inclusive.

18 (b) “Primary language test” includes any test administered pursuant to Education Code section 60640(f)
19 or a test administered pursuant to the requirement of Education Code section 60640(g), as applicable, and
20 includes the test booklets, test answer documents, administration manuals, administrative materials and
21 practice tests.

22 (c) “School districts” includes school districts, county offices of education, and any charter school that
23 does not elect to be part of the school district or county office of education that granted the charter.

24 (d) “Eligible pupil” is any pupil in grades 2 to 11, inclusive, who is not otherwise exempted.

25 (e) “Department” means the California Department of Education.

26 (f)(1) “Standards-based achievement tests” are those tests that measure the degree to which pupils are
27 achieving the content standards and performance standards adopted by the State Board of Education as
28 provided in Education Code section 60642.5. The standards-based achievement tests include test booklets,
29 test answer documents, administration manuals, administrative materials, practice tests and other materials
30 developed and provided by the publisher of the tests.

31 (2) The term “standards-based achievement test” may refer to one or more of the individual achievement
32 tests in the subject of core curriculum areas required by Education Code section 60642.5, or all of the
33 standards-based achievement tests collectively.

34 (g) “~~Wave testing~~ Administration Period” means one of multiple test administration periods by school
35 districts with schools or programs on non-traditional calendars that begin and complete the school year at
36 various times and have staggered vacation periods, in order to ensure that all pupils are tested at

1 approximately the same point in the instructional year.

2 (h) “The California Alternate Performance Assessment” (CAPA) is an individually administered
3 performance assessment developed to assess students’ achievement on a subset of California’s Academic
4 Content Standards. It is administered to students receiving special education services who are significantly
5 cognitively disabled. The CAPA includes administration manuals, administrative materials, and documents
6 on which the examiner records the student’s responses.

7 (i) “Out-of-level testing” means administering a test that is below the grade level of the pupil being
8 tested.

9 (j) “Scribe” is an employee of the school district, or a person assigned by a nonpublic school to
10 implement a pupil’s IEP and is required to transcribe a pupil’s or adult student’s responses to the format
11 required by the examination. A family member or guardian is not eligible to be a scribe.

12 (k) “Accommodations” means any variation in the assessment environment or process that does not
13 fundamentally alter what the test measures or affect the comparability of scores. Accommodations” may
14 include variations in scheduling, setting, aids, equipment, and presentation format.

15 (l) “Modification” means any variation in the assessment environment or process that fundamentally
16 alters what the test measures or affects the comparability of scores.

17 (m) “Variation” is a change in the manner in which a test is presented or administered, or in how a test
18 taker is allowed to respond, and includes, but is not limited to, accommodations and modifications as defined
19 in Education Code section 60850.

20 NOTE: Authority cited: Sections 33031 and 60605~~(g) and (h)~~, Education Code. Reference: Sections 60615,
21 60640, 60642 and 60642.5, Education Code.

22 **§ 852. Pupil Exemptions.**

23 (a) A parent or guardian may submit to the school a written request to excuse his or her child from any
24 or all parts of any test provided pursuant to Education Code section 60640. A school district and its
25 employees may discuss the Standardized Testing and Reporting program with parents and may inform
26 parents of the availability of exemptions under Education Code section 60615. However, the school district
27 and its employees shall not solicit or encourage any written exemption request on behalf of any child or
28 group of children.

29 (b) Pupils in special education programs shall be tested with the designated achievement test and the
30 standards-based achievement tests unless the individualized educational program for the pupil specifically
31 ~~exempts the pupil from the Standardized Testing and Reporting program~~ states that the pupil will be assessed
32 with the California Alternate Performance Assessment or (CAPA).

33 NOTE: Authority cited: Sections 33031 and 60605~~(g) and (h)~~, Education Code. Reference: Sections 60615
34 and 60640, Education Code.

35 **§ 853. Administration.**

36 (a) ~~The designated achievement test and the standards-based achievement tests, which include all those~~

1 ~~materials set forth in Section 850~~, shall be administered and returned by school districts in accordance with
2 the manuals or other instructions provided by the ~~publishers-contractor~~ for administering and returning the
3 tests unless specifically provided otherwise in this subchapter including instructions for administering the test
4 with variations, accommodations, and modifications. The procedures shall include, but are not limited to,
5 those designed to insure the uniform and standard administration of the tests to pupils, the security and
6 integrity of the test content and test items, and the timely provision of all required student and school level
7 information.

8 ~~(b) Except as provided in Subdivision (c), the reading section of any test shall not be read, interpreted, or~~
9 ~~translated to any pupil and no pupil may use a calculator while taking the designated achievement test or the~~
10 ~~standards-based achievement tests.~~

11 (b) The standards-based achievement tests and the California Alternate Performance Assessment shall be
12 administered and returned by school districts in accordance with the manuals and other instructions provided
13 by the contractor, and in accordance with testing variations, accommodations, and modifications specified in
14 Section 853.5. The procedures shall include, but are not limited to, those designed to insure the uniform and
15 standard administration of the tests to pupils, the security and integrity of the test content and test items, and
16 the timely provision of all required student and school level information.

17 ~~(c) Pupils in special education programs with individualized education programs delineating~~
18 ~~accommodations such as, but not limited to, large print, Braille, extended time, or the use of a reader or~~
19 ~~scribe or a calculator; or pupils with current plans under Section 504 of the Rehabilitation Act of 1973~~
20 ~~specifying such accommodations shall be tested and the prescribed adaptations or accommodations shall be~~
21 ~~made.~~

22 (c) Tests within the STAR Program are to be administered only by certificated staff members or other
23 district/county employees under the direct supervision of a certificated staff member. Direct supervision
24 means that the test administration is monitored by a certificated staff member who is available to respond to
25 questions that may arise during the administration of the test.

26 ~~(d) English language learners enrolled in the school district for less than one year may be tested with~~
27 ~~standard or nonstandard accommodations in accordance with the manuals or other instructions provided by~~
28 ~~the test publisher. Nonstandard accommodations shall be utilized only if the school district has adopted a~~
29 ~~policy to be applied at each school to identify those English learners enrolled in the school district for less~~
30 ~~than one year for whom nonstandard accommodations may be appropriate due to the pupil's limited English~~
31 ~~proficiency. Nonstandard accommodations may include, but are not limited to, reading and translating the~~
32 ~~test instructions into the pupil's primary language and use of a bilingual dictionary.~~

33 (d) For the 2003-04 school year only, pupils with IEPs in grades 5 through 11 may be tested one or two
34 grades below their enrollment grade. The test level must be specified in the student's IEP. Out-of-level
35 testing shall be used only if the student is not receiving grade-level instruction. Students tested out-of-level
36 must complete all tests required for the grade at which they are tested and shall be administered only one

1 level of the tests. Out-of-level testing is not allowed for pupils in grades 2, 3, and 4. No out-of-level testing
 2 shall be allowed at any grade beginning with the 2004-05 school year.

3 ~~(e) Except for pupils in special education programs with individualized education programs and pupils~~
 4 ~~with section 504 plans or English language learners enrolled in the school district for less than one year, no~~
 5 ~~pupil shall be tested with accommodations or modifications.~~

6 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640,
 7 Education Code.

8
 9 *Add new section 853.5 to read:*

10 **§ 853.5 Use of Variations, Accommodations, and Modifications for the Standards-Based Achievement**
 11 **Test and the California Alternate Performance Assessment.**

12 (a) School districts may provide all pupils the following testing variations if regularly used in the
 13 classroom:

14 (1) test directions that are simplified or clarified.

15 (2) special or adaptive furniture.

16 (3) special lighting or acoustics.

17 (4) an individual carrel or study enclosure.

18 (5) test individually in a separate room provided that an employee of the school, district, or non-public
 19 school, who has signed the STAR Test Security Affidavit, directly supervises the pupil.

20 (6) markers, masks, or other means to maintain visual attention to the examination or test items.

21 (b) Eligible pupils with disabilities who have IEPs and students with Section 504 plans shall be permitted
 22 to take the standards-based achievement tests with the following presentation, response or setting
 23 accommodations if specified in the IEP or Section 504 plan:

24 (1) large print versions.

25 (2) test items enlarged through electronic means (e.g., photocopier).

26 (3) Braille transcriptions provided by the test contractor.

27 (4) use of manually coded or American sign language to present directions for administration.

28 (5) audio or oral presentation of the mathematics tests.

29 (6) use of manually coded or American sign language to present test questions on the mathematics tests.

30 (7) responses marked in test booklet and transferred to the answer document by a school or district
 31 employee who has signed the Test Security Affidavit.

32 (8) responses dictated to a scribe for selected-response items (e.g., multiple-choice test questions).

33 (9) responses dictated to a scribe, audio recorder or speech to text converter on the grade 4 or grade 7
 34 writing application standards section of the California English-Language Arts Standards Test, and the pupil
 35 indicates all spelling and language conventions.

36 (10) use of word processing software with spell and grammar check tools turned off on the writing

1 portion of the grade 4 or 7 test.

2 (11) use of an assistive device that does not interfere with the independent work of the student on the
3 writing portion of the test.

4 (12) supervised breaks within a section of the test.

5 (13) administration of the test at the most beneficial time of day to the pupil.

6 (14) test administered by certificated teacher to a pupil or adult student at home or in the hospital.

7 (c) Eligible pupils with disabilities shall be permitted to take the standards-based tests with the following
8 modifications if specified in the eligible pupil's IEP:

9 (1) calculators on the mathematics or science tests.

10 (2) audio or oral presentation of the English-language arts tests.

11 (3) use of manually coded or American sign language to present test questions on the English-language
12 arts tests.

13 (4) spellcheckers, grammar checkers, or word processing software programs that check or correct
14 spelling and/or grammar on the writing portion of the grade 4 and 7 English-language arts tests.

15 (5) mechanical or electronic devices or other assistive devices that are not used solely to record the
16 pupil's responses, including but not limited to transcribers, scribes, voice recognition or voice to text
17 software, and that identify a potential error in the pupil's response or that correct spelling, grammar or
18 conventions on the writing portion of the grade 4 and 7 English-language arts tests.

19 (6) use of American sign language to provide a response to the written portion of the grade 4 and 7
20 English-language arts tests.

21 (7) English dictionary on the English-language arts test.

22 (8) mathematics dictionary on the mathematics section of the examination.

23 (d) School districts shall provide English learner pupils the following additional testing variations if
24 regularly used in the classroom or for assessment:

25 (1) Flexible setting. Tested in a separate room with other English learners provided that an employee of
26 the school, district, or non-public school, who has signed the Test Security Affidavit, directly supervises the
27 pupil and the pupil has been provided such a flexible setting.

28 (2) Flexible schedule. Additional supervised breaks following each section within a test part provided
29 that the test section is completed within a testing day. A test section is identified by a "STOP" at the end of
30 it.

31 (3) Translated directions. Hear any test directions the test examiner is to read aloud translated into their
32 primary language. English learners shall have the opportunity to ask clarifying questions about any test
33 directions presented orally in their primary language.

34 (4) Glossaries. Access to glossaries/word lists for the standards-based achievement tests in mathematics,
35 science, and history-social science if used regularly in the classroom (English to primary language). The
36 glossaries/word lists are to include only the English word or phrase with the corresponding primary language

1 word or phrase. The glossaries/word lists shall include no definitions or formulas.

2 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Section 60640, Education
3 Code.

4
5 *Amend 859 to read:*

6 **§859. STAR Test Security Agreement and Test Security Affidavit.**

7 (a) All STAR program district and test site coordinators shall sign the STAR Test Security Agreement
8 set forth in Subdivision (b) before receiving any STAR tests or test materials.

9 (b) The STAR Test Security Agreement shall be as follows:

10 STAR TEST SECURITY AGREEMENT

11 The coordinator acknowledges by his or her signature on this form that the designated achievement test
12 and the standards-based achievement tests are secure tests and agrees to each of the following conditions to
13 ensure test security.

14 (1) The coordinator will take all necessary precautions to safeguard all tests and test materials by limiting
15 access to persons within the school district with a responsible, professional interest in the tests' security.

16 (2) The coordinator will keep on file the names of all persons having access to tests and test materials.
17 All persons having access to the materials shall be required by the coordinator to sign the STAR Test
18 Security Affidavit that will be kept on file in the school district office.

19 (3) The coordinator will keep the tests and test materials in a secure, locked location limiting access to
20 only those persons responsible for test security except on actual testing dates as provided in California Code
21 of Regulations, Title 5, Division 1, Chapter 2, Subchapter 3.75.

22 (4) The coordinator will not copy any part of the test or test materials without written permission from
23 the Department to do so.

24 (5) The coordinator will not review test questions, develop any scoring keys or review or score any pupil
25 responses except as required by the contractor's manuals.

26 By signing my name to this document, I am assuring that I and anyone having access to the test materials
27 will abide by the above conditions.

28 By: _____

29 Title: _____

30 School District: _____

31 Date: _____

32 (c) Each STAR test site coordinator shall deliver the tests and test materials only to those persons
33 actually administering the designated achievement test and the standards-based achievement tests on the date
34 of testing to persons trained to administer the test who have executed the STAR Test Security Affidavit set
35 forth in Subdivision (e).

(d) All persons having access to the designated achievement test and test materials and to the standards-based achievement tests and test materials shall acknowledge the limited purpose of their access to the tests by signing the STAR Test Security Affidavit set forth in Subdivision (e).

(e) The STAR Test Security Affidavit shall be as follows:

STAR TEST SECURITY AFFIDAVIT

I acknowledge that I will have access to the designated achievement test and to the standards-based achievement tests for the purpose of administering the test(s). I understand that these materials are highly secure, and it is my professional responsibility to protect their security as follows:

(1) I will not divulge the contents of the test to any other person through verbal, written, or any other means of communication.

(2) I will not copy any part of the test(s) or test materials.

(3) I will keep the test(s) secure until the test(s) are actually distributed to pupils.

(4) I will limit access to the test(s) and test materials by test examinees to the actual testing periods when they are taking the test.

(5) I will collect and account for all materials following each period of testing and will not permit pupils to remove test materials from the room where testing takes place.

(6) I will no disclose, or allow to be disclosed, the contents of, or the test instrument. I will not review any test questions, passages, or other test items with pupils before, during, or following testing.

(7) I will not develop scoring keys or review or score any pupil responses except as required by the publisher’s administration manual(s) to prepare answer documents for machine or other scoring.

(8) I will return all test materials to the designated STAR test site coordinator daily upon completion of testing.

(9) I will administer the test in accordance with the directions for test administration set forth in the publisher’s manual for test administration.

Signed: _____

Print Name: _____

Position: _____

School: _____

School District: _____

Date: _____

(f) To maintain the security of the program, all STAR program district coordinators and test site coordinators are responsible for inventory control and shall use appropriate inventory control forms to monitor and track test inventory.

NOTE: Authority cited: Sections 33031 and 60605(~~e~~) and (~~h~~), Education Code. Reference: Section 60640, Education Code.

Last Minute Memorandum

To: STATE BOARD MEMBERS **Date:** September 9, 2003

From: Geno Flores, Deputy Superintendent, Assessment and Accountability Branch

Re: ITEM #8

Subject: **REVISED** – STANDARDIZED TESTING AND REPORTING: APPROVE COMMENCEMENT OF THE RULEMAKING PROCESS FOR AMENDMENTS TO TITLE 5

Please insert the following:

Attachment 4: [Economic Impact Statement for STAR Program \(Pages 1-4\)](#)
Attachment 5: [Economic and Fiscal Impact Analysis for STAR Program \(Pages 1-6\)](#)
Attachment 6: [Title 5. Education Subchapter 3.75. Standardized Testing and Reporting Program Regulations \(Pages 1-7\)](#)

This memorandum accompanies Attachments 4, 5 and 6, *State Board Notice of Proposed Rulemaking – Disclosures regarding the proposed action*. This attachment provides revisions to Attachments 2 and 3 received in the original State Board of Education mailing. This also serves as a revision to the previously provided Last Minute Memorandum.

ECONOMIC AND FISCAL IMPACT STATEMENT (REGULATIONS AND ORDERS)

See SAM Sections 6600 - 6680 for Instructions and Code Citations

DEPARTMENT NAME	CONTACT PERSON	TELEPHONE NUMBER
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400		NOTICE FILE NUMBER Z

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS (Include calculations and assumptions in the rulemaking record.)

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|---|---|
| <input type="checkbox"/> a. Impacts businesses and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance standards |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.) |

h. (cont.) _____

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: _____ Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

3. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

4. Indicate the geographic extent of impacts: Statewide Local or regional (list areas): _____

5. Enter the number of jobs created: _____ or eliminated: _____ Describe the types of jobs or occupations impacted: _____

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

Yes No If yes, explain briefly: _____

B. ESTIMATED COSTS (Include calculations and assumptions in the rulemaking record.)

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____

a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____

d. Describe other economic costs that may occur: _____

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 2-98)

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. (Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.): \$ _____

4. Will this regulation directly impact housing costs? Yes No If yes, enter the annual dollar cost per housing unit: \$ _____ and the number of units: _____

5. Are there comparable Federal regulations? Yes No Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS (Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. Briefly summarize the benefits that may result from this regulation and who will benefit: _____

2. Are the benefits the result of: specific statutory requirements, or goals developed by the agency based on broad statutory authority?
Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? \$ _____

D. ALTERNATIVES TO THE REGULATION (Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: \$ _____	Cost: \$ _____
Alternative 1:	Benefit: \$ _____	Cost: \$ _____
Alternative 2:	Benefit: \$ _____	Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? Yes No

Explain: _____

E. MAJOR REGULATIONS (Include calculations and assumptions in the rulemaking record.)
Cal/EPA boards, offices and departments are subject to the following additional requirements per Health and Safety Code section 57005.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 2-98)

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million ? Yes No (If No, skip the rest of this section)

2. Briefly describe each equally as effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: \$ _____ Cost-effectiveness ratio: _____

Alternative 1: \$ _____ Cost-effectiveness ratio: _____

Alternative 2: \$ _____ Cost-effectiveness ratio: _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years)

1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

a. is provided in (Item _____, Budget Act of _____) or (Chapter _____, Statutes of _____)

b. will be requested in the _____ Governor's Budget for appropriation in Budget Act of _____
(FISCAL YEAR)

2. Additional expenditures of approximately \$ _____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

a. implements the Federal mandate contained in _____

b. implements the court mandate set forth by the _____
court in the case of _____ vs. _____

c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____
election; (DATE)

d. is issued only in response to a specific request from the _____
_____, which is/are the only local entity(s) affected;

e. will be fully financed from the _____ authorized by Section
(FEES, REVENUE, ETC.)
_____ of the _____ Code;

f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit.

3. Savings of approximately \$ _____ annually.

4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT *cont. (STD. 399, Rev. 2-98)*

- 5. No fiscal impact exists because this regulation does not affect any local entity or program.
- 6. Other.

B. FISCAL EFFECT ON STATE GOVERNMENT *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

- 1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year. It is anticipated that State agencies will:
 - a. be able to absorb these additional costs within their existing budgets and resources.
 - b. request an increase in the currently authorized budget level for the _____ fiscal year.
- 2. Savings of approximately \$ _____ in the current State Fiscal Year.
- 3. No fiscal impact exists because this regulation does not affect any State agency or program.
- 4. Other.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

- 1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year.
- 2. Savings of approximately \$ _____ in the current State Fiscal Year.
- 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.
- 4. Other.

SIGNATURE	TITLE	DATE
AGENCY SECRETARY ¹ APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER	DATE
DEPARTMENT OF FINANCE ² APPROVAL/CONCURRENCE		DATE

1. *The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6600-6680, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*
2. *Finance approval and signature is required when SAM sections 6600-6670 require completion of the Fiscal Impact Statement in the STD. 399.*

**Economic and Fiscal Impact Analysis
Proposed Amendments of Title 5, CCR, Regulations
Relating to the Standardized Testing and Reporting Program (STAR)**

The Fiscal Policy Office has reviewed for economic and fiscal impact the proposed regulatory language (version 09/10/03) amending Sections 850, 852, 853, and 859, and adding Sections 853.5, of Article 1, of Subchapter 3.75, of Chapter 2, of Division 1, of Title 5, of the California Code of Regulations, relating to the Standardized Testing and Reporting Program (STAR).

What would the proposed regulations do?

According to program staff the proposed new and amended regulations:

- Modify the definitions used for the program to conform to changes made in the materials and terms used in the program and add additional terms that require definitions.
- Modify Pupil Exemptions to conform to new legislation.
- Enhance security for the program by specifying who may administer the tests.
- Incorporate State Board of Education policy for out-of-level testing.
- Clarify testing variations, accommodations, and modifications that may be used on the tests, and which students may use those adaptations..
- Add language to the STAR Test Security Agreement to enhance the security of the tests used in the Program.

Do the proposed regulations impose a local cost mandate?

Yes. The proposed amended regulations would create a new program or higher level of service in an existing program, thereby creating a local mandate, however since the mandates are required by a Federal mandate, contained in Public Law 107-110 "No Child Left Behind Act of 2001," the mandates are not reimbursable in accordance with Section 6, Article XIII B, of the California Constitution.

Public Law 107-110- January 8, 2002 "No Child Left Behind Act of 2001" (NCLB), Title I, Section 1001 states, "The purpose of this title is to ensure that all children have a fair, equal and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state academic assessments.

NCLB Section 1111(b)(3)(A) states "IN GENERAL — Each State plan shall demonstrate that the State educational agency, in consultation with local educational agencies, has implemented a set of high-quality, yearly student academic assessments that include, at a minimum, academic assessments in mathematics, reading or language arts, and science that will be used as the primary means of determining the yearly performance of the State and of each local educational agency and school in the State in enabling all children to meet the State's challenging student academic achievement standards, except that no State shall be required to meet the requirements of this part relating to science..."

Current Federal Regulation Section 200.6 “clarifies that the State’s academic assessment system must include accommodations for students with disabilities as defined under section 602(3) of the IDEA and for students covered under section 504 of the Rehabilitation Act of 1973 (Section 504) to allow the State to measure the academic achievement of these students relative to the State’s academic content and achievement standards for the grades in which they are enrolled. In addition, the regulations require States to provide one or more alternate assessments for students with disabilities, as defined under section 602(3) of the IDEA, who cannot participate in all or part of the State assessment, even with appropriate accommodations. These alternate assessments must yield results for the grade in which the student is enrolled in at least reading/language arts, mathematics, and, beginning in the 2007–2008 school year, science.” (*Federal Register / Vol. 68, No. 54 / Thursday, March 20, 2003 / Proposed Rules, page 13797*)

§ 852. Pupil Exemptions.

(b) Pupils in special education programs shall be tested with the designated achievement test and the standards-based achievement tests unless the individualized educational program for the pupil specifically ~~exempts the pupil from the Standardized Testing and Reporting program~~ states that the pupil will be assessed with the California Alternate Performance Assessment or (CAPA).

NOTE: Authority cited: Sections 33031 and 60605~~(g) and (h)~~, Education Code.
Reference: Sections 60615 and 60640, Education Code.

The Department has chosen to select a single alternate assessment for students with disabilities; thus the activities associated with the administration of the California Alternate Performance Assessment (CAPA) are not reimbursable in accordance with Section 6, of Article XIII B, of the California Constitution and Sections 17500 et. seq. of the Government Code because this regulation implements a Federal mandate.

§ 853. Administration.

(a) The designated achievement test ~~and the standards-based achievement tests, which include all those materials set forth in Section 850,~~ shall be administered and returned by school districts in accordance with the manuals or other instructions provided by the ~~publishers-contractor~~ for administering and returning the tests unless specifically provided otherwise in this subchapter including instructions for administering the test with variations, accommodations, and modifications. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information.

(b) The standards-based achievement tests and the California Alternate Performance Assessment shall be administered and returned by school districts in accordance with the manuals and other instructions provided by the contractor, and in accordance with testing variations, accommodations, and modifications specified in Section 853.5. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information.

NOTE: Authority cited: Sections 33031 and 60605~~(g) and (h)~~, Education Code.
Reference: Section 60640, Education Code.

The mandates of Section 853(a) and (b) would not be reimbursable in accordance with Section 6, of Article XIII B, of the California Constitution and Sections 17500 et. seq. of the Government Code because these regulations implement a Federal mandate (the administration of the “designated achievement test,” the “standards-based achievement test,” and the California Alternate Performance Assessment).

§ 853. Administration.

(c) For the 2003-04 school year only, pupils with IEPs in grades 5 through 11 may be tested one or two grades below their enrollment grade. The test level must be specified in the student’s IEP. Out-of-level testing shall be used only if the student is not receiving grade-level instruction. Students tested out-of-level must complete all tests required for the grade at which they are tested and shall be administered only one level of the tests. Out-of-level testing is not allowed for pupils in grades 2, 3, and 4. No out-of-level testing shall be allowed at any grade beginning with the 2004-05 school year.

NOTE: Authority cited: Sections 33031 and 60605~~(g)~~ and ~~(h)~~, Education Code.
Reference: Section 60640, Education Code.

The activities of Section 853(c) are permissive (not mandated) and do not create a potential for reimbursable costs.

§ 853.5 Use of Variations, Accommodations, and Modifications for the Standards-Based Achievement Test and the California Alternate Performance Assessment.

(a) School districts may provide all pupils the following testing variations if regularly used in the classroom:

- (1) test directions that are simplified or clarified.
- (2) special or adaptive furniture.
- (3) special lighting or acoustics.
- (4) an individual carrel or study enclosure.
- (5) test individually in a separate room provided that an employee of the school, district, or non-public school, who has signed the STAR Test Security Affidavit, directly supervises the pupil.
- (6) markers, masks, or other means to maintain visual attention to the examination or test items.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Section 60640, Education Code.

The activities of Section 853.5(a) are permissive (not mandated) and do not create a potential for reimbursable costs.

§ 853.5 Use of Variations, Accommodations, and Modifications for the Standards-Based Achievement Test and the California Alternate Performance Assessment.

(b) Eligible pupils with disabilities who have IEPs and students with Section 504 plans shall be permitted to take the standards-based achievement tests with the following presentation, response or setting accommodations if specified in the IEP or Section 504 plan:

- (1) large print versions;
- (2) test items enlarged through electronic means (e.g., photocopier).
- (3) Braille transcriptions provided by the test contractor.
- (4) use of manually coded or American sign language to present directions for administration.
- (5) audio or oral presentation of the mathematics tests.

- (6) use of manually coded or American sign language to present test questions on the mathematics tests.
- (7) responses marked in test booklet and transferred to the answer document by a school or district employee who has signed the Test Security Affidavit.
- (8) responses dictated to a scribe for selected-response items (e.g., multiple-choice test questions).
- (9) responses dictated to a scribe, audio recorder or speech to text converter on the grade 4 or grade 7 writing application standards section of the California English-Language Arts Standards Test, and the pupil indicates all spelling and language conventions.
- (10) use of word processing software with spell and grammar check tools turned off on the writing portion of the grade 4 or 7 test.
- (11) use of an assistive device that does not interfere with the independent work of the student on the writing portion of the test.
- (12) supervised breaks within a section of the test.
- (13) administration of the test at the most beneficial time of day to the pupil.
- (14) test administered by certificated teacher to a pupil or adult student at home or in the hospital.

(c) Eligible pupils with disabilities shall be permitted to take the standards-based tests with the following modifications if specified in the eligible pupil's IEP:

- (1) calculators on the mathematics or science tests.
- (2) audio or oral presentation of the English-language arts tests.
- (3) use of manually coded or American sign language to present test questions on the English-language arts tests.
- (4) spellcheckers, grammar checkers, or word processing software programs that check or correct spelling and/or grammar on the writing portion of the grade 4 and 7 English-language arts tests.
- (5) mechanical or electronic devices or other assistive devices that are not used solely to record the pupil's responses, including but not limited to transcribers, scribes, voice recognition or voice to text software, and that identify a potential error in the pupil's response or that correct spelling, grammar or conventions on the writing portion of the grade 4 and 7 English-language arts tests.
- (6) use of American sign language to provide a response to the written portion of the grade 4 and 7 English-language arts tests.
- (7) English dictionary on the English-language arts test.
- (8) mathematics dictionary on the mathematics section of the examination.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Section 60640, Education Code.

The mandates of Section 853.5(b) and (c) would also not be reimbursable in accordance with Section 6, of Article XIII B, of the California Constitution and Sections 17500 et. seq. of the Government Code because these regulations implement a Federal mandate.

§ 853.5 Use of Variations, Accommodations, and Modifications for the Standards-Based Achievement Test and the California Alternate Performance Assessment.

- (d) School districts shall provide English learner pupils the following additional testing variations if regularly used in the classroom or for assessment:
 - (1) Flexible setting. Tested in a separate room with other English learners provided that an employee of the school, district, or non-public school, who has signed the Test Security Affidavit, directly supervises the pupil and the pupil has been provided such a flexible setting.

Economic and Fiscal Impact Analysis

STAR—September 10, 2003

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- (2) Flexible schedule. Additional supervised breaks following each section within a test part provided that the test section is completed within a testing day. A test section is identified by a “STOP” at the end of it.
- (3) Translated directions. Hear any test directions the test examiner is to read aloud translated into their primary language. English learners shall have the opportunity to ask clarifying questions about any test directions presented orally in their primary language.
- (4) Glossaries. Access to glossaries/word lists for the standards-based achievement tests in mathematics, science, and history-social science if used regularly in the classroom (English to primary language). The glossaries/word lists are to include only the English word or phrase with the corresponding primary language word or phrase. The glossaries/word lists shall include no definitions or formulas.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Section 60640, Education Code.

NCLB Section 1111(b)(3)(C)(ix)(III) states that “the inclusion of limited English proficient students, who shall be assessed in a valid and reliable manner and provided reasonable accommodations on assessments administered to such students under this paragraph, including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency as determined under paragraph (7).”

The mandates of Section 853.5(d) would also not be reimbursable in accordance with Section 6, of Article XIII B, of the California Constitution and Sections 17500 et. seq. of the Government Code because this regulation implements a Federal mandate.

Additionally, it is important to note that the state legislature has identified that there are costs to locals in the administration of STAR and its parts (Nationally-norm Reference Test, Standards-based Achievement Test, Primary Language Test, and CAPA):

Education Code Section 60640(h) states:

- (1) The Superintendent of Public Instruction shall apportion funds to school districts to enable school districts to meet the requirements of subdivisions (b), (f), and (g).
- (2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the Budget Act and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

Assembly Bill 1765 (Chapter 157, 2003), the Budget Act of 2003 states in Item 6110-113-0001(3) 20.70.030.006-STAR Program \$60,836,000 is appropriated for the pupil testing programs including “funds from primary language tests administered pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 of the Education Code.”

Economic and Fiscal Impact Analysis

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Additionally, Assembly Bill 1765 (Chapter 157, 2003), the Budget Act of 2003 states in Item 6110-113-0890(2) 20.70.030.006-STAR Program \$5,119,000 is appropriated “for activities related to the Standardized Testing and Reporting Program. Of this amount \$900,000 is for the planning and development of science tests and \$650,000 is for reporting Adequate Yearly Progress pursuant to the No Child Left Behind Act of 2001 (P.L. 107-110).”

In Fiscal Year (FY) 2002-03, from the total of \$60.64 million (General Fund and Federal Fund) appropriated for STAR 2001-02; a total of \$11.37 million was set aside to be apportioned for the administration of the examination to the students in grades 2-11.

The Commission on State Mandates has found STAR to constitute an un-funded State mandate, because the existing apportionment does not cover the full cost of this program to schools. Based on the initial cost estimate (January 2003), the un-funded liability for the period FY 97/98 through FY 03/04 is estimated to be \$184.1 million. Amendments or additions to these regulations that constitute a mandate could also be viewed as generating additional costs in excess of the apportionment and would thus be reimbursable.

Do the proposed regulations impose costs upon the state?

No. The proposed amendments to the regulations should not impose additional costs upon the state, beyond those identified as potential local reimbursable mandated costs.

Do the proposed regulations impact local business?

No. The proposed amendments to the regulations should have no impact on local business.

This analysis reflects the attached Economic and Fiscal Impact Statement.

Donald E. Killmer, Consultant
Fiscal and Administrative Services Division

Date

Susan Lange, Deputy Superintendent
Finance, Technology, and Administration Branch

Date

Title 5. EDUCATION

Division 1. State Department of Education

Chapter 2. Pupils

Subchapter 3.75. Standardized Testing and Reporting Program

Article 1. General

Amend Sections 850, 852, and 853 to read:

§ 850. Definitions.

For the purposes of the Standardized Testing and Reporting (STAR) program, the following terms shall have the following meanings unless the context indicates otherwise:

(a) “Designated achievement test” is the achievement test required by Education Code section 60640(b). The designated achievement test includes test booklets, test answer documents, administration manuals, and administrative materials, ~~and practice tests~~. The designated achievement test is to be administered in the areas of reading, spelling, written expression and mathematics for pupils in grades 2 to 8, inclusive; and in the core curriculum areas of reading, writing, mathematics, history/social science and science for pupils in grades 9 to 11, inclusive.

(b) “Primary language test” includes any test administered pursuant to Education Code section 60640(f) or a test administered pursuant to the requirement of Education Code section 60640(g), as applicable, and includes the test booklets, test answer documents, administration manuals, administrative materials and practice tests.

(c) “School districts” includes school districts, county offices of education, and any charter school that does not elect to be part of the school district or county office of education that granted the charter.

(d) “Eligible pupil” is any pupil in grades 2 to 11, inclusive, who is not otherwise exempted.

(e) “Department” means the California Department of Education.

(f)(1) “Standards-based achievement tests” are those tests that measure the degree to which pupils are achieving the content standards and performance standards adopted by the State Board of Education as provided in Education Code section 60642.5. The standards-based achievement tests include test booklets, test answer documents, administration manuals, administrative materials, practice tests and other materials developed and provided by the publisher of the tests.

(2) The term “standards-based achievement test” may refer to one or more of the individual achievement tests in the subject of core curriculum areas required by Education Code section 60642.5, or all of the standards-based achievement tests collectively.

(g) “~~Wave testing~~ Administration Period” means one of multiple test administration periods by school districts with schools or programs on non-traditional calendars that begin and complete the school year at various times and have staggered vacation periods, in order to ensure that all pupils are tested at approximately the same point in the instructional year.

1 (h) “The California Alternate Performance Assessment” (CAPA) is an individually administered
2 performance assessment developed to assess students’ achievement on a subset of California’s Academic
3 Content Standards. It is administered to students receiving special education services who are significantly
4 cognitively disabled. The CAPA includes administration manuals, administrative materials, and documents
5 on which the examiner records the student’s responses.

6 (i) “Out-of-level testing” means administering a test that is below the grade level of the pupil being
7 tested.

8 (j) “Scribe” is an employee of the school district, or a person assigned by a nonpublic school to
9 implement a pupil’s IEP and is required to transcribe a pupil’s or adult student’s responses to the format
10 required by the examination. A family member or guardian is not eligible to be a scribe.

11 (k) “Accommodations” means any variation in the assessment environment or process that does not
12 fundamentally alter what the test measures or affect the comparability of scores. Accommodations” may
13 include variations in scheduling, setting, aids, equipment, and presentation format.

14 (l) “Modification” means any variation in the assessment environment or process that fundamentally
15 alters what the test measures or affects the comparability of scores.

16 (m) “Variation” is a change in the manner in which a test is presented or administered, or in how a test
17 taker is allowed to respond, and includes, but is not limited to, accommodations and modifications as defined
18 in Education Code section 60850.

19 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60615,
20 60640, 60642 and 60642.5, Education Code.

21 **§ 852. Pupil Exemptions.**

22 (a) A parent or guardian may submit to the school a written request to excuse his or her child from any
23 or all parts of any test provided pursuant to Education Code section 60640. A school district and its
24 employees may discuss the Standardized Testing and Reporting program with parents and may inform
25 parents of the availability of exemptions under Education Code section 60615. However, the school district
26 and its employees shall not solicit or encourage any written exemption request on behalf of any child or
27 group of children.

28 (b) Pupils in special education programs shall be tested with the designated achievement test and the
29 standards-based achievement tests unless the individualized educational program for the pupil specifically
30 ~~exempts the pupil from the Standardized Testing and Reporting program~~ states that the pupil will be assessed
31 with the California Alternate Performance Assessment or (CAPA).

32 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60615
33 and 60640, Education Code.

34 **§ 853. Administration.**

35 (a) ~~The designated achievement test and the standards-based achievement tests, which include all those~~

1 ~~materials set forth in Section 850~~, shall be administered and returned by school districts in accordance with
2 the manuals or other instructions provided by the ~~publishers~~ contractor for administering and returning the
3 tests unless specifically provided otherwise in this subchapter including instructions for administering the test
4 with variations, accommodations, and modifications. The procedures shall include, but are not limited to,
5 those designed to insure the uniform and standard administration of the tests to pupils, the security and
6 integrity of the test content and test items, and the timely provision of all required student and school level
7 information.

8 ~~(b) Except as provided in Subdivision (c), the reading section of any test shall not be read, interpreted, or~~
9 ~~translated to any pupil and no pupil may use a calculator while taking the designated achievement test or the~~
10 ~~standards-based achievement tests.~~

11 (b) The standards-based achievement tests and the California Alternate Performance Assessment shall be
12 administered and returned by school districts in accordance with the manuals and other instructions provided
13 by the contractor, and in accordance with testing variations, accommodations, and modifications specified in
14 Section 853.5. The procedures shall include, but are not limited to, those designed to insure the uniform and
15 standard administration of the tests to pupils, the security and integrity of the test content and test items, and
16 the timely provision of all required student and school level information.

17 ~~(c) Pupils in special education programs with individualized education programs delineating~~
18 ~~accommodations such as, but not limited to, large print, Braille, extended time, or the use of a reader or~~
19 ~~scribe or a calculator; or pupils with current plans under Section 504 of the Rehabilitation Act of 1973~~
20 ~~specifying such accommodations shall be tested and the prescribed adaptations or accommodations shall be~~
21 ~~made.~~

22 (c) For the 2003-04 school year only, pupils with IEPs in grades 5 through 11 may be tested one or two
23 grades below their enrollment grade. The test level must be specified in the student's IEP. Out-of-level
24 testing shall be used only if the student is not receiving grade-level instruction. Students tested out-of-level
25 must complete all tests required for the grade at which they are tested and shall be administered only one
26 level of the tests. Out-of-level testing is not allowed for pupils in grades 2, 3, and 4. No out-of-level testing
27 shall be allowed at any grade beginning with the 2004-05 school year.

28 ~~(d) English language learners enrolled in the school district for less than one year may be tested with~~
29 ~~standard or nonstandard accommodations in accordance with the manuals or other instructions provided by~~
30 ~~the test publisher. Nonstandard accommodations shall be utilized only if the school district has adopted a~~
31 ~~policy to be applied at each school to identify those English learners enrolled in the school district for less~~
32 ~~than one year for whom nonstandard accommodations may be appropriate due to the pupil's limited English~~
33 ~~proficiency. Nonstandard accommodations may include, but are not limited to, reading and translating the~~
34 ~~test instructions into the pupil's primary language and use of a bilingual dictionary.~~

35 ~~(e) Except for pupils in special education programs with individualized education programs and pupils~~

1 ~~with section 504 plans or English language learners enrolled in the school district for less than one year, no~~
2 ~~pupil shall be tested with accommodations or modifications.~~

3 NOTE: Authority cited: Sections 12001, 33031 and 60605(g) and (h), Education Code. Reference: Section
4 60640, Education Code; 20 USC 6311.

5
6 *Add new section 853.5 to read:*

7 **§ 853.5 Use of Variations, Accommodations, and Modifications for the Standards-Based Achievement**
8 **Test and the California Alternate Performance Assessment.**

9 (a) School districts may provide all pupils the following testing variations if regularly used in the
10 classroom:

11 (1) test directions that are simplified or clarified.

12 (2) special or adaptive furniture.

13 (3) special lighting or acoustics.

14 (4) an individual carrel or study enclosure.

15 (5) test individually in a separate room provided that an employee of the school, district, or non-public
16 school, who has signed the STAR Test Security Affidavit, directly supervises the pupil.

17 (6) markers, masks, or other means to maintain visual attention to the examination or test items.

18 (b) Eligible pupils with disabilities who have IEPs and students with Section 504 plans shall be permitted
19 to take the standards-based achievement tests with the following presentation, response or setting
20 accommodations if specified in the IEP or Section 504 plan:

21 (1) large print versions;

22 (2) test items enlarged through electronic means (e.g., photocopier).

23 (3) Braille transcriptions provided by the test contractor.

24 (4) use of manually coded or American sign language to present directions for administration.

25 (5) audio or oral presentation of the mathematics tests.

26 (6) use of manually coded or American sign language to present test questions on the mathematics tests.

27 (7) responses marked in test booklet and transferred to the answer document by a school or district
28 employee who has signed the Test Security Affidavit.

29 (8) responses dictated to a scribe for selected-response items (e.g., multiple-choice test questions).

30 (9) responses dictated to a scribe, audio recorder or speech to text converter on the grade 4 or grade 7
31 writing application standards section of the California English-Language Arts Standards Test, and the pupil
32 indicates all spelling and language conventions.

33 (10) use of word processing software with spell and grammar check tools turned off on the writing
34 portion of the grade 4 or 7 test.

35 (11) use of an assistive device that does not interfere with the independent work of the student on the

1 writing portion of the test.

2 (12) supervised breaks within a section of the test.

3 (13) administration of the test at the most beneficial time of day to the pupil.

4 (14) test administered by certificated teacher to a pupil or adult student at home or in the hospital.

5 (c) Eligible pupils with disabilities shall be permitted to take the standards-based tests with the following
6 modifications if specified in the eligible pupil's IEP:

7 (1) calculators on the mathematics or science tests.

8 (2) audio or oral presentation of the English-language arts tests.

9 (3) use of manually coded or American sign language to present test questions on the English-language
10 arts tests.

11 (4) spellcheckers, grammar checkers, or word processing software programs that check or correct
12 spelling and/or grammar on the writing portion of the grade 4 and 7 English-language arts tests.

13 (5) mechanical or electronic devices or other assistive devices that are not used solely to record the
14 pupil's responses, including but not limited to transcribers, scribes, voice recognition or voice to text
15 software, and that identify a potential error in the pupil's response or that correct spelling, grammar or
16 conventions on the writing portion of the grade 4 and 7 English-language arts tests.

17 (6) use of American sign language to provide a response to the written portion of the grade 4 and 7
18 English-language arts tests.

19 (7) English dictionary on the English-language arts test.

20 (8) mathematics dictionary on the mathematics section of the examination.

21 (d) School districts shall provide English learner pupils the following additional testing variations if
22 regularly used in the classroom or for assessment:

23 (1) Flexible setting. Tested in a separate room with other English learners provided that an employee of
24 the school, district, or non-public school, who has signed the Test Security Affidavit, directly supervises the
25 pupil and the pupil has been provided such a flexible setting.

26 (2) Flexible schedule. Additional supervised breaks following each section within a test part provided
27 that the test section is completed within a testing day. A test section is identified by a "STOP" at the end of
28 it.

29 (3) Translated directions. Hear any test directions the test examiner is to read aloud translated into their
30 primary language. English learners shall have the opportunity to ask clarifying questions about any test
31 directions presented orally in their primary language.

32 (4) Glossaries. Access to glossaries/word lists for the standards-based achievement tests in mathematics,
33 science, and history-social science if used regularly in the classroom (English to primary language). The
34 glossaries/word lists are to include only the English word or phrase with the corresponding primary language
35 word or phrase. The glossaries/word lists shall include no definitions or formulas.

1 NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code. Reference: Section 60640,

2 Education Code; 20 USC 6311.

3
4 *Amend 859 to read:*

5 **§859. STAR Test Security Agreement and Test Security Affidavit.**

6 (a) All STAR program district and test site coordinators shall sign the STAR Test Security Agreement
7 set forth in Subdivision (b) before receiving any STAR tests or test materials.

8 (b) The STAR Test Security Agreement shall be as follows:

9 STAR TEST SECURITY AGREEMENT

10 The coordinator acknowledges by his or her signature on this form that the designated achievement test
11 and the standards-based achievement tests are secure tests and agrees to each of the following conditions to
12 ensure test security.

13 (1) The coordinator will take all necessary precautions to safeguard all tests and test materials by limiting
14 access to persons within the school district with a responsible, professional interest in the tests' security.

15 (2) The coordinator will keep on file the names of all persons having access to tests and test materials.
16 All persons having access to the materials shall be required by the coordinator to sign the STAR Test
17 Security Affidavit that will be kept on file in the school district office.

18 (3) The coordinator will keep the tests and test materials in a secure, locked location limiting access to
19 only those persons responsible for test security except on actual testing dates as provided in California Code
20 of Regulations, Title 5, Division 1, Chapter 2, Subchapter 3.75.

21 (4) The coordinator will not copy any part of the test or test materials without written permission from
22 the Department to do so.

23 (5) The coordinator will not review test questions, develop any scoring keys or review or score any pupil
24 responses except as required by the contractor's manuals.

25 By signing my name to this document, I am assuring that I and anyone having access to the test materials
26 will abide by the above conditions.

27 By: _____

28 Title: _____

29 School District: _____

30 Date: _____

31 (c) Each STAR test site coordinator shall deliver the tests and test materials only to those persons
32 actually administering the designated achievement test and the standards-based achievement tests on the date
33 of testing to persons trained to administer the test who have executed the STAR Test Security Affidavit set
34 forth in Subdivision (e).

(d) All persons having access to the designated achievement test and test materials and to the standards-based achievement tests and test materials shall acknowledge the limited purpose of their access to the tests by signing the STAR Test Security Affidavit set forth in Subdivision (e).

(e) The STAR Test Security Affidavit shall be as follows:

STAR TEST SECURITY AFFIDAVIT

I acknowledge that I will have access to the designated achievement test and to the standards-based achievement tests for the purpose of administering the test(s). I understand that these materials are highly secure, and it is my professional responsibility to protect their security as follows:

(1) I will not divulge the contents of the test to any other person through verbal, written, or any other means of communication.

(2) I will not copy any part of the test(s) or test materials.

(3) I will keep the test(s) secure until the test(s) are actually distributed to pupils.

(4) I will limit access to the test(s) and test materials by test examinees to the actual testing periods when they are taking the test.

(5) I will collect and account for all materials following each period of testing and will not permit pupils to remove test materials from the room where testing takes place.

(6) I will no disclose, or allow to be disclosed, the contents of, or the test instrument. I will not review any test questions, passages, or other test items with pupils before, during, or following testing.

(7) I will not develop scoring keys or review or score any pupil responses except as required by the publisher’s administration manual(s) to prepare answer documents for machine or other scoring.

(8) I will return all test materials to the designated STAR test site coordinator daily upon completion of testing.

(9) I will administer the test in accordance with the directions for test administration set forth in the publisher’s manual for test administration.

Signed: _____

Print Name: _____

Position: _____

School: _____

School District: _____

Date: _____

(f) To maintain the security of the program, all STAR program district coordinators and test site coordinators are responsible for inventory control and shall use appropriate inventory control forms to monitor and track test inventory.

NOTE: Authority cited: Sections 33031 and 60605~~(g) and (h)~~, Education Code. Reference: Section 60640, Education Code.



SEPTEMBER 2003 AGENDA

SUBJECT	X	ACTION
Standardized Testing and Reporting (STAR) Program: Approval to Redesignate Spanish Assessment of Basic Education, 2 nd Edition, (SABE/2) and Approval of 2004 Contract with CTB/McGraw-Hill.	X	INFORMATION
		PUBLIC HEARING

Recommendation:

It is recommended that the State Board of Education (SBE) redesignate the SABE/2 as the primary language test for the 2004 STAR Program. This action will continue the administration of the SABE/2 to Spanish speaking English learners for the Spring 2004 STAR Program. Attached is a copy of the Scope of Work and Cost Proposal for 2003. Revisions to the Scope of Work for 2004 and a Cost Proposal will be provided to the SBE as a Last Minute item.

Summary of Previous State Board of Education Discussion and Action

The State Board of Education (SBE) designated the Spanish Assessment of Basic Education, 2nd Edition (SABE/2) published by CTB/McGraw-Hill as the primary language test for the STAR Program during fall 1998. The test was designated for a four-year period ending with the 2002 administration. SBE has approved the annual costs and contract for the program each year since the original designation. SBE redesignated the SABE/2 as the primary language test for the 2003 STAR Program at its March 2002 meeting and approved the costs and contract at its September 2002 meeting.

Summary of Key Issue(s)

- Education Code section 60640(g) requires testing pupils of limited English proficiency who are enrolled in California public schools fewer than 12 months in their primary language if such a test is available.
- Section 60643(a)(1) states that the publisher of the test designated by the SBE shall enter into an agreement with California Department of Education by October 15 each school year.
- Section 60640(h)(2) of the Education Code specifies that the SBE shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643.
- The amounts to be paid shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the Budget Act and by making allowances for the estimated apportionment costs to school districts.
- During spring 2003, approximately 108,000 Spanish-speaking English learners were administered the SABE/2: 41,220 of these students had been in California public schools fewer than 12 months and were required to be tested and 65,808 of the students had been enrolled 12 months or more and were tested as a district option.

Fiscal Analysis (as appropriate)

SABE/2 costs of approximately \$1.7 million (including the district apportionments for administering the test) are included in the STAR Program budget. No additional funding is required.

Attachment(s)

Attachment 1 [Scope of Work: SABE/2 STAR 2003 \(Pages 1-30\)](#)

Attachment 2 Last Minute Item - A Revised Scope of Work with a timeline and cost proposal will be provided.

Scope of Work: SABE/2 STAR 2003

Student Information SABE/2 STAR

As established throughout this contract, the Scope of Work for SABE/2 2003 is based on the estimated case count of 127,000 students.

A. Test materials production and publication

Based on the data projected from the past two years of the program, CTB will provide the following SABE/2 materials for spring 2003. Practice Tests will be included for grades 2-11.

CTB will work with CDE to ensure, where practical and meaningful, that materials are described to districts using a common nomenclature across the STAR and SABE/2 STAR contracts.

We will print documents with the SABE/2 STAR logo in sufficient quantity to ensure that all districts receive a booklet and answer document for each child tested. The practice materials will be standard SABE/2 materials.

Materials to be provided in 2003

TITLE/CODE	QTY NEW PRINT YEAR 2003
SABE/2 Level 2 Test book Code # 43172	56000
SABE/2 Level 2 Exam Manual Code #43176	13200
SABE/2 Level 3 Test book Code 43173	56000
SABE/2 Level 3 Exam Manual Code # 43177	14000
SABE/2 Level 4 Test book Code # 40990	40,000
SABE/2 Level 5 Test book Code # 40991	60000
SABE/2 Level 6 Test book Code # 40992	55000
SABE/2 Levels 4,5,6 Exam Manual Code # 43178	41000
Custom Levels 4,5,6 Answer Sheet Code # 43174Cut	125000
Custom Levels 4,5,6 Answer Sheet Code # 43175/CF	100,000
Custom Slip Sheet Code # 43180	142,000
Custom Test Coordinator's Manual Code # 43179	13000
Large Print (test books only) per grade	25
Practice Tests, Levels 2 – 3 Code # 11253	100,000
Practice Tests, Levels 4 – 6 Code # 11254	130,000

CTB will ship a 15% (10% school & 5% district) overage to each district. Braille books are not included in this proposal.

B. Delivery of test materials to school districts

All Spanish-speaking students in Grades 2 through 11 who have been in California Public Schools less than 12 months must be tested. Other English learners, whose primary language is Spanish, may be tested at the school district's discretion. CTB will contact each district to receive enrollment data. Enrollment/Order Form packages will be sent to districts in early October. Order Forms should be received by CTB no later than November 15.

Districts testing earlier than the suggested testing window of March 17 through May 23, with make-ups through May 30, will be at CTB's discretion. CTB is under no obligation to deliver early, but will accommodate districts as possible.

Students testing must take all subtests including Word Analysis. Study Skills is the only optional test. (Grades 4 - 12)

An order is completed for a school or a district.

SABE/2 STAR 2003 test materials will be packed by school, and then shipped to the district for distribution. Each shipment will include packing lists that the District Coordinator will be asked to check. If a discrepancy is found, the Coordinator will have a toll free number to call to notify CTB within two (2) working days of the receipt of the shipment. CTB will remedy the discrepancy within two working days of the school district report.

A bill of lading is prepared for each shipment, a copy of which is kept as a record. This bill includes the date of shipment, the number of skids and cartons in each shipment, and the carrier used.

All districts are sent materials via Con-Way and UPS because they are secure carriers.

After the shipments have been sent, Traffic Control traces shipments as needed.

Delivery

It is anticipated that all deliveries will be made no more than 25 days nor less than 10 days before each districts first scheduled test date or other specified dates included in changes in Title 5 regulations. CTB has considerable experience in working with districts on processes, and procedures are in place to ensure correct deliveries. This includes access to help via a toll-free number.

CTB provides secure delivery and retrieval to and from California school districts.

The ordering and fulfillment process will follow specific procedures that have been developed and proven effective for many years, including

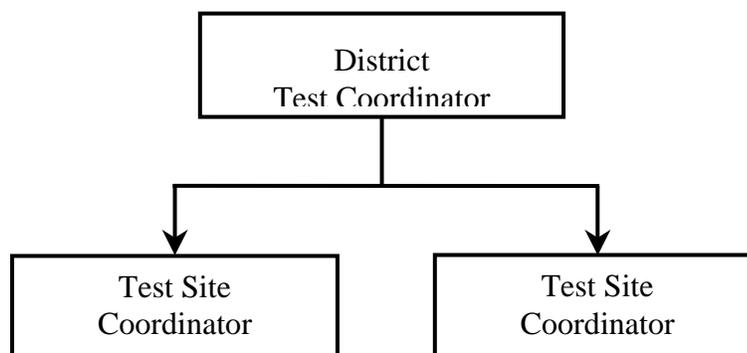
- Tracking incoming orders
- Providing procedures to accommodate late additional orders and changes to orders
- Providing a toll-free number for support
- Tracking shipments
- Providing instruction for districts (inventory and assembly of test materials)

Retrieval

The SABE/2 STAR 2003 custom contract scoring team will schedule and arrange for the pickup of test materials no more than 5 days from the districts notification to CTB. The District Coordinator will be provided a toll-free number to call (with fax backup) when all answer documents for schools in the district have been packaged and are ready for pickup. The CTB coordinator will verify the pickup address, contact person, business hours, and total number of boxes. The CTB coordinator will arrange transportation and provide the District Coordinator and contact person with information about the carrier, pickup date, and confirmation number. Upon arrival of the documents, the CTB Receiving Department will check the box count against the number recorded. The District Coordinator will be contacted if discrepancies exist, and tracking procedures will be initiated with the carrier. CTB uses a number of carriers that have proven to be reliable, including UPS, FedEx, Emery, Roadway, and Conway.

On-Site Security

A primary focus of the security program is the handling of the test materials at the districts and schools. CTB will rely on the existing network of District Coordinators and Test Site Coordinators who will be responsible for the security of the testing instrument while the tests are on-site.



CTB will provide security-handling instructions for district and school test administrators that will detail the receipt, handling, storage, administration, retrieval, and return of materials. This information will be included in the SABE/2 STAR 2003 Test Coordinator's Manual. The manual will include:

- Security agreements for district and school personnel, to be signed and kept by the district test coordinator for all personnel who will be handling the tests.
- Security document checklist for district coordinators, with specific security warnings and instructions.
- Receipt procedures for the test materials to verify that all materials were received, including instructions to rectify material shortages before testing begins.
- Procedures for storing testing materials in secure facilities.
- Procedures for ensuring that test booklets are not accessed by unauthorized persons.
- Instructions for distribution of Test Coordinator's Manuals and test booklets on testing date.
- Inventory procedures for handling the testing materials at each point in the testing process to maintain accountability and integrity.
- Procedures for the collection and accounting of all test booklets and answer documents after regular and make-up testing periods.
- Instructions for returning the test materials to CTB for scoring and reporting.
- CDE will do a follow-up to secure all forms
- The coordinator will be expected to take all necessary precautions to safeguard all tests and test materials by limiting access by persons within the school district. The coordinator will be asked to sign a security agreement in which he/she agrees to be responsible to: Keep on file the names of all persons having access to tests and test materials.
- Require all persons having access to the materials to sign a Security Affidavit that will be kept on file at the school or district office.
- Keep the tests and test materials in a secure, locked location.
- Monitor and track test inventory and ensure that tests returned for processing or destruction are properly accounted for and paperwork is correctly filled out.
- Provide secure transportation of test materials within the school district.

CTB has designed and instituted procedures to maintain the integrity and security of all assessment materials. This is a requirement of any high-stakes assessment program.

Test booklets at Levels 2 and 3 are consumable. This increases the security, since students will write directly in the test booklet and the completed test booklets will be returned to CTB where they will be stored or destroyed as required. Districts will also return all booklets for Levels 4 through 6, as well as, each student's scan-able answer document. The implementation of a comprehensive security plan requires close attention by all members of the team who have access to secure materials, including CTB employees and state, district, and school personnel. A good working relationship facilitates immediate identification of any potential security violations and encourages discussion regarding preventative and corrective actions where necessary.

CTB understands that SABE/2 STAR 2003 materials are to be maintained in a secure manner during development, printing, administration, and scoring in order to preserve the integrity of the tests. When not in use, all test materials will be kept in secure, locked storage. Individuals involved in the development, printing, administration, or scoring of SABE/2 STAR 2003 who have access to secure test items or materials will be provided with a copy of CTB's security requirements and procedures.

Answer Documents

CDE will finalize the demographic pages for the 2003 test booklets and answer documents by early August and forward them to CTB. Based on these demographic changes in the answer document, the pre-ID file will be changed to conform to both the changes and ETS specifications. Student biographical data will be collected either by means of the optional pre-coding of slip sheets or by completion of demographic grids on the SABE/2 STAR 2003 answer document, which is designed to collect all of the information required for reporting by the State Department of Education.

CTB will work with CDE to ensure that the answer document collects all required information. In addition, CTB and CDE will look at ways to clarify identification of students who are English only (immersion). Schools and districts are responsible for completion of student demographic data. CTB will work with districts to facilitate the correction of omissions when we are notified. Districts will be charged \$2.60 for demographic edits. (see section C6, Zero Tolerance). When the omissions are critical, they may impact turn-around time. CDE will be notified by CTB about district errors in coding. In such instances CTB will ask for recommendations from the CDE on how to proceed.

If the EL column for “Less than 12 months” and “12 months or more” is left blank on the student documents, CTB will not report these students in the EL disaggregation summaries.

If the testing accommodation fields are left blank, the students will be counted as having had No Accommodations and will be included in all the summary data.

The front cover of the answer sheet is designed to collect information from the student including student name, birth date, grade and other demographic information and to be pre-coded. CTB will print both cut-sheet and continuous form answer sheets to accommodate both in-school hand coding and pre-coding by CTB.

A second demographic section is designed to collect information for school and district use only, with the exception of the slipsheet for use with levels 2 and 3.

Envelopes will be provided for the return of answer booklets. Booklets will be placed in the envelopes and will be accompanied by a Group Information Sheet (GIS). The GIS, shown below, identifies the teacher and the number of students in the class and the school.

readable answer documents, or a slip-sheet. In addition to the pre-coded printing, all pre-coded data may also appear in human-readable format. The final pre-coding specifications will be approved by CDE and will correspond to those used by the STAR program.

The source of the pre-coding can be customer input from mainframe cartridges or tapes, or PC diskettes of any format. The submitted data should contain only the data to be pre-coded. Test data will be required in accordance with specifications agreed to at least three weeks prior to the receipt of the final pre-ID document printing. Formatting of the test data will be checked for compliance, and any necessary corrections or adjustments will be negotiated between CTB and the districts prior to the format of run data. The district is responsible for making the corrections or adjustments and providing a new set of data. These quality assurance precautions ensure rapid turnaround after receipt of the run data.

C. Test processing, scoring and analysis

1. Pre-Scoring (prework):

- Establish contact with the school districts to obtain information regarding the test coordinator, test materials, test dates, and scoring services.
- Enter into the database all the scoring services requested for each school district.
- Provide pre-coded Group Information Sheets (GIS) and School Group Lists (SGL) to the districts in the Test Coordinator's Kit.
- Provide pre-coded documents (slipsheets and answer sheets) if requested by the district.
- Assist districts in packaging and finalizing transportation arrangements.
- Distribute District Contact Information Form to obtain STAR Test Coordinator information.
- Distribute Custom Order Forms for SABE/2 STAR materials.
- Distribute Custom Test Coordinator's Manual to address specific requirements for the STAR program.

Quality Control Steps:

- A front-end kit is provided to Operations prior to the arrival of documents for Scoring. The front-end kit is used to verify that all the materials we were expecting from each district were received..

2. Receiving:

- Carriers deliver answer documents to CTB.
- Boxes are unloaded, counted, and organized by district.
- Electronic tracking records are initiated for each district.
- All receipts are logged and organized for processing within 24 hours of receipt.
- Districts are notified of any missing boxes.
- Set up dedicated carriers for pickup of documents from districts.

Quality Control Steps:

- Count every box received from a district and notify the districts and/or carriers of any discrepancies.
- Create electronic tracking records for every district to keep track of the customer's job in every workstation from the time it is received..

3. Log-In:

- Document type, student counts, and structure are verified against district materials to ensure that student data will be processed and organized accurately.
- Test materials are sorted and organized by district for Scanning.
- Any case count discrepancies are resolved before moving the customer's job to the next workstation.
- Inventory all the test materials received from the districts.

Quality Control Steps:

- Verify that all the grades and schools have been received by checking against the prework data.
- CDS numbers on the GIS are verified against the CDS file provided by CDE. CDE will supply a data file of charter schools electing to test independently.
- Ensure that 100% of the test books and examiners manuals were received by verifying the information against the material fulfillment data

4. Scanning:

- Test documents are trimmed and scanned on 5000i scanners, operating at 6,000 sheets per hour.
- Student biographical data and responses are captured on tape and uploaded to the Mainframe using standard scanning rules.
- Custom scan drivers for the SABE/2 STAR documents
- Capture the additional biographical and demographic student data.

Quality Control Steps:

- Calibrate the scanners periodically to capture accurate data.

5. Updates:

- Verify scanned student counts against counts from the district.
- Edit student data, applying standard edits for student names, birth dates, and scores.
- Edit the additional biographical and demographic information required for SABE/2 STAR.

Quality Control Steps:

- Verify and resolve individual student data for missing names and birth dates, low scores, and unscannable documents.
- Verify that all documents were scanned and that the hierarchical integrity was maintained.

6. Zero Tolerance

CTB will implement the following procedures for any/all data discrepancies identified for required biographical and demographic fields that may be blank/invalid within the scanned student records.

- CTB's Edit Error Report will be faxed to the district office for resolution. CTB will print confirmation of delivery for each fax sent. If a fax does not go through, a call will be placed to the site and arrangements will be made to refax/re-send the Edit Error Report to the site.
- The district office will have 48 hours from the confirmed data and time of delivery of the faxed Edit Error Report to provide CTB with resolution for any/all discrepancies identified. The site will return the original Edit Error Report via fax with the appropriate data to resolve each case. The site must provide resolution information that is legible and clearly identified in order for CTB to consider that the site has met their obligation to provide this information.

- If the district does not provide CTB with resolution by the established deadline, CTB will fax a notification of missed deadline to CDE with cc to the site. CDE will have 48 hours from the confirmed date and time of delivery of this fax to provide CTB with resolution for any/all discrepancies identified for the site.
- If CTB does not receive resolution from CDE within 48 hours, CTB will release the site's documents and process as received. This means that the answer documents will be processed with blank/invalid coding, and reports will be generated for the site and the data will be included in aggregate summary data (including the Internet data).
- CTB will provide an invoice to CDE for any/all updates to student records.
- CTB will provide CDE with a master EXCEL file identifying each site that has been identified as having data discrepancies. The EXCEL file will be provided as soon as the Edit Error Reports begin to be generated, and will be updated on a weekly basis and sent to CDE via email.

7. Reports Generation:

- Scanned and edited data is checked to ensure that we received all the schools and grades expected for a given school district.
- Discrepancies related to individual student data or questions related to special population categories are verified before submitting reports.
- All reports for a given school district are run once the data has been verified.
- Forward all billing related information to Billing.
- Assign and set up unique Scoring Organization to identify SABE/2 STAR customers.
- For multi-track districts, submit reports for all the schools within a track and submit reports for a district after scoring the last track for that district.
- Provide Custom GRT to include the additional SABE/2 STAR demographic information.
- Provide custom software in addition to downloads for TestMate Clarity customers.
- Print all reports with custom SABE/2 STAR Logo.

Quality Control Steps:

- Verify data from Updates against the School/Group List filled out by the districts.
- Verify and resolve any issues involving special population categories.
- Verify the CDS numbers to ensure accurate reporting of the data for each school and district.
- Ensure that the correct scoring services were prepared for the customer by checking against pre-work.

8. Reports provided

CTB will provide a disaggregated summary report at each of the following levels: school, district, county and state. This report will be disaggregated as required by the enacting legislation. That is:

- Special Education*
- male
- female
- Less than 12 months
- 12 months or more
- economically advantaged
- economically disadvantaged

*Note: Aggregations will not exclude students with special accommodations.

9. Reports include:

1. **Basic/CRS** — The Class Summary Report (CSR) provides a permanent record of test results for students in a class or another specified group.
2. **Spanish Home Report** — provides parent/guardians with normative information about their child's academic achievement.
3. **Student Profile Report** — identifies an individual student's strengths and weaknesses in both norm- and criterion-referenced terms, intended primarily for classroom teachers.
4. **Evaluation Summary** — helps school and district administrators evaluate the overall effectiveness of their education programs.
5. **Internet reports**— include data summarized at four levels: state, county, district, school; research files (data) posted online for public access.

6. **OPR** Objectives Performance Report Summary by class
7. **GRT** General Research Tape provides all student data
8. **SGRT** Summery General Research Tape provides by State, County and District

Log-Out and Delivery:

Delivery

Reports will be shrink-wrapped in class packages for return to districts. Districts will distribute to schools. All reports will be returned by secure carrier and require a signature upon delivery.

Districts will have a toll-free telephone number to call for information on their reports.

Shelf:

- Packing lists with appropriate addresses are generated for each district.
- All report packages are verified for completeness.
- Report packages are boxed and shipped to the districts via traceable carriers.
- Receipt signatures are recorded in the tracking system for proof of delivery.

Quality Control Steps:

- Ensure that all reports for a given district were printed and are complete.
- Ensure that reports are shipped to the correct address and are delivered on-time and in good condition.

Telephone Coverage and Staffing

- CTB will provide customer service via a toll free number between the hours of 7:00 am and 5:00 p.m. Pacific Standard time.
- The toll free number will be staffed with five customer service representatives and a manager.
- All employees on the Help Desk will work 100% on the California contracts including STAR, SABE/2 STAR and CELDT.
- This will ensure consistency in the message to our California District Test Coordinators and help to streamline the communications.
- A system will be in place to record customer concerns and log them for reporting and analysis purposes.

- An electronic version of that log will be made available to CDE with ten days prior notification.
- Scoring team members are also designated for the SABE/2 STAR Hotline.
- Customer will be routed to the designated team member based on the Area Code.
- If the scoring team member is not available to take the call, it will be routed to the next team member in the SABE/2 STAR team.
- If team members are not available, the customer goes into Voice-mail with a "0" out option to go to the Scoring Help Desk.
- All customers who leave messages will be called within 24 hours.

Contingency Plans:

- Have a third line activated for use during peak periods and have it staffed accordingly.
- Hire additional personnel for phone coverage if needed.
- Explore other options such as using Customer Service for additional coverage.

Program Support

California Evaluation Consultants representing CTB will conduct pre-test SABE2 workshops to assist District STAR Coordinators to prepare for the spring 2003 test administration. All workshops will be held in conjunction with CAT/6 and CST workshops. CDE must approve all dates, times and locations of the workshops. They will also be available to provide district support with in-service training for school personnel in the use and understanding of reports.

Report interpretation information will also be posted on the SABE/2 STAR 2003 Website.

D. SABE/2 STAR scoring deliverables Spring 2003

General Requirements

CDE will have total review and approval of all documents, that is all letters, forms or other materials that will be distributed will be submitted to CDE for final approval. In order to accommodate this requirement, CTB requests that a 5 day turnaround time be implemented

In order to protect student confidentiality, all scores that are based on 10 or fewer students will not be reported and asterisks will appear on the reports

The test dates for Spring 2003 will be reported back to the district at the bottom of their reports

All reports will report a common test date, determined by CDE and CTB, at the bottom of each report. All reports, except the label and the Spanish Home Report will include the following footnote on all pages re: Special Accommodations:

- “Reference scores may not be valid for the subtest(s) where the student was given test accommodations.”
- The Spanish Home Report will provide the Spanish translation of the above footnote.
- The Label, due to space limitations, will report the following text at the beginning of each group of students’ individual Labels: “Scores for accommodated students may not be valid.”.

Regular Population—Excludes Special Accommodations

(No Special Report Titles):

Report	Mode	Scores	# of Copies (each mode)	Type of Select
Student Label	Class	RP, RNCE, RS, NCR	1	Does not Exclude Accommodations
Spanish Home Report	Class	RP	2	Does not Exclude Accommodations
Student Profile Report	Class	RP, RNCE, RS, NCR	2	Does not Exclude Accommodations
Class Record Sheet	Class w/ class means	RP, RNCE, RS, NCR	2	Does not Exclude Accommodations
Class Record Sheet Summary (suppress detail)	School & District	MDRP, MRNCE, MRS, MNCR	2	Exclude Accommodations
Objective Performance Summary	School & District	By Objective: % above 75 OPI & Average OPI	2	Exclude Accommodations
Evaluation Summary	School, District, County, & State	MRNCE, MNCR, RP of the MNCE ----- RP & RNCE @ 10 th , 25 th , 50 th , 75 th , 90 th , # of % per quarter	2	Exclude Accommodations Also, for County and State modes only: - Exclude Grades 1 and 12

Students with Accommodations

(All Report Titles = “ACCOMMODATIONS ONLY”): The special accommodations population will receive the same aggregate reports and scores as the ‘regular population’ (defined above) for class, school, and district modes only. The exception is that reference scores are not available for off-level test takers. Therefore, since the reference percentile is the only score provided on the Spanish Home Report, this report will not be provided for off-level testing.

Disaggregate Reports:

Report	Mode	Scores	# of Copies (each mode)	Type of Select
Class Record Sheet Summary (suppress detail) (Title: "MALE")	School & District	MDRP, MRNCE, MRS, MNCR	2	(Male) & (No Accommodations) & any/all off level
Evaluation Summary (Title: "MALE")	School, District, County, & State	MRNCE, MNCR, RP of the MNCE ----- RP & RNCE @ 10 th , 25 th , 50 th , 75 th , 90 th , # of % per quarter	2	(Male) & (No Accommodations) Also, for County and State modes only: - Exclude Grades 1 and 12
Class Record Sheet Summary (suppress detail) (Title: "FEMALE")	School & District	MDRP, MRNCE, MRS, MNCR	2	(Female) & (No Accommodations)
Evaluation Summary (Title: "FEMALE")	School, District, County, & State	MRNCE, MNCR, RP of the MNCE ----- RP & RNCE @ 10 th , 25 th , 50 th , 75 th , 90 th , # of % per quarter	2	(Female) & (No Accommodations) Also, for County and State modes only: - Exclude Grades 1 and 12
Class Record Sheet Summary (suppress detail) (Title: NSLP/NSLPF)	School & District	MDRP, MRNCE, MRS, MNCR	2	() NSLP & (No Accommodations)
Evaluation Summary (Title: NSLP/NSLPN)	School, District, County, & State	MRNCE, MNCR, RP of the MNCE ----- RP & RNCE @ 10 th , 25 th , 50 th , 75 th , 90 th , # of % per quarter	2	() NSLP & (No Accommodations) Also, for County and State modes only: - Exclude Grades 1 and 12
Evaluation Summary (Title: NSLP/NSLPN)	School, District, County, & State	MRNCE, MNCR, RP of the MNCE ----- RP & RNCE @ 10 th , 25 th , 50 th , 75 th , 90 th , # of % per quarter	2	() NSLP & (No Accommodations) Also, for County and State modes only: - Exclude Grades 1 and 12

Report	Mode	Scores	# of Copies (each mode)	Type of Select
Class Record Sheet Summary (suppress detail) (Title: "LESS THAN 12 MONTHS")	School & District	MDRP, MRNCE, MRS, MNCR	2	(less than 12 months) & (No Accommodations)
Evaluation Summary (Title: "LESS THAN 12 MONTHS")	School, District, County & State	MRNCE, MNCR, RP of the MNCE ----- RP & RNCE @ 10 th , 25 th , 50 th , 75 th , 90 th , # of % per quarter	2	(less than 12 months) & (No Accommodations) Also, for County and State modes only: - Exclude Grades 1 and 12
Class Record Sheet Summary (suppress detail) (Title: 12 months or more)	School & District	MDRP, MRNCE, MRS, MNCR	2	(12 months or more) & (No Accommodations)
Evaluation Summary (Title: "12 months or more")	School, District, County & State	MRNCE, MNCR, RP of the MNCE ----- RP & RNCE @ 10 th , 25 th , 50 th , 75 th , 90 th , # of % per quarter	2	(12 months or more) & (No Accommodations) Also, for County and State modes only: - Exclude Grades 1 and 12
Class Record Sheet Summary (suppress detail) (Title: "SPECIAL EDUCATION")	School & District	MDRP, MRNCE, MRS, MNCR	2	(Special Education)
Evaluation Summary (Title: "SPECIAL EDUCATION")	School, District, County & State	MRNCE, MNCR, RP of the MNCE ----- RP & RNCE @ 10 th , 25 th , 50 th , 75 th , 90 th , # of % per quarter	2	(Special Education) Also, for County and State modes only: - Exclude Grades 1 and 12

General Research Tapes:

Report	Mode	Scores	# of Copies (each mode)	Type of Select
GRT (Tape or Disk) with student names	District (upon request)	All available scores	1	All test scores for all students in grades 2-12 *
GRT (on CD ROM) with student names	State	All available scores	1	All test scores for all students in grades 2-11 --(i.e.: <u>exclude</u> Grade 12)

*** Districts to pay for Grade 12**

Reporting to the State including electronic files

State Summary Files (for CDE use): The following State summary files will be provided

Report	Mode	Scores	# of Copies (each mode)	Type of Select
Summary Data Files	State, County, District, School	Total N by Grade NOTE: All n-counts = total number of students tested. ----- By Total Reading, Total Mathematics, Total Language, & Spelling: RP of the MRNCE-TITLE: "RP for 'Avg.' Student Score" % of students above the 75 th RP: Based on Cumulative N-Count* % of students above the 50 th : Based on cumulative N count* % of students above the 25 th : Based on cumulative N count*	1	Grades 2-11 Eight total populations: *1) All Students (mandatory/"less than 12 months" <u>non-mandatory/"12 months or more*2)</u> Mandatory only (coded as "less than 12 months *3) Non-mandatory only (coded as "12 months or more 4) All FEMALE (same as #1) 5) All MALE (same as #1) 6) All SPECIAL EDUCATION (same as #1) - All data excludes students identified as Special Accommodations, except for #8 All SPECIAL EDUCATION. - Exclude Grades 1 and 12 - Suppress SPELLING for Grades 9-11 only - Suppress WORD ANALYSIS - Suppress STUDY SKILLS

***NOTE:** Two of the six populations will be loaded to CTB's website.

Immersion Population* (All Report Titles = "IMMERSION"):

Report	Mode	Scores	# of Copies (each)	Type of Select
Student Label	Class	RP, RNCE, RS, NCR	1	All Immersion Students
Spanish Home Report	Class	RP	2	All Immersion Students
Student Profile Report	Class	RP, RNCE, RS, NCR	2	All Immersion Students
Class Record Sheet	Class	RP, RNCE, RS, NCR	2	All Immersion Students
Class Record Sheet Summary (suppress detail)	School & District	MDRP, MRNCE, MRS, MNCR	2	All Immersion Students
Objective Performance Summary	School & District	By Objective: % below 75 OPI & Average OPI	2	All Immersion Students
Evaluation Summary	School & District	MRNCE, MNCR, RP of the MNCE ----- RP & RNCE @ 10 th , 25 th , 50 th , 75 th , 90 th , # of % per quarter	2	All Immersion Students

*Immersion = English-speaking students who are not EL and who tested with SABE/2 STAR

Internet Reporting

Reports will be provided online, after CDE approval, with data summarized at four levels (state, county, district, school), including one report for the State of California, and reports for all participating schools, every county, and every school district within the State. Research files for the same summary data will be posted online for public access.

Transition to 2004

CTB will prepare and transport to CDE all data for 1999-2003 years and prepare web page construction for transition to CDE's web page. All data such as web page headers and footers, Logos that are CBT's property will be removed from said pages. Technical requirements such as format, look and feel are to be determined will need to review/confirm CDE server specs (mostly concerned that CDE maintains UNIX servers with PERL support). If so, the migration of reports and data should be fairly direct. Need to confirm that the current display of data and information across the SABE/2 STAR support site will be maintained after the transition. (This includes site indices, general info pages "about the program", Spanish translations, copyright information in the report footers, etc.)

Sample SABE/2 STAR Website page

SABE/2 STAR State Summary Report - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Address <http://www.ctb.com/SABE2STAR/reports/00-00000-0000000-a.html> Go

The California State Summary Report Spring 2001



SABE/2 STAR Summary Report for All Students
(Note: All data excludes Special Accommodations students, except the data for the Special Education population.)

Total Number Tested: 116215
Data uploaded on August 15, 2001

- [SABE/2 STAR homepage](#)
- [Link to the comparable 2000 report](#)
- [Link to the comparable 1999 report](#)

Grade	2	3	4	5	6	7	8	9	10	11
Total Reading	N=28500	N=22336	N=15619	N=11603	N=6902	N=6764	N=5554	N=9297	N=4959	N=2415
RPR for "Avg." Student Score	59	64	60	58	55	56	55	50	53	48
% Scoring Above 75th RP	29	35	34	29	27	30	30	25	27	23
% Scoring Above 50th RP	61	67	59	60	51	55	53	50	53	49
% Scoring Above 25th RP	83	88	84	85	79	77	76	75	80	75
Total Mathematics	N=28115	N=22213	N=15568	N=11606	N=6832	N=6678	N=5472	N=9255	N=4919	N=2394
RPR for "Avg." Student Score	64	66	61	60	53	49	44	40	39	31
% Scoring Above 75th RP	39	42	37	31	30	23	22	16	15	12
% Scoring Above 50th RP	63	68	60	61	50	48	43	40	35	29
% Scoring Above 25th RP	82	85	82	81	75	71	68	67	65	54
Total Language	N=28331	N=22075	N=15447	N=11504	N=6744	N=6628	N=5441	N=9034	N=4761	N=2307
RPR for "Avg." Student Score	62	64	58	61	58	63	61	54	50	44
% Scoring Above 75th RP	39	37	35	34	34	40	35	29	21	14
% Scoring Above 50th RP	63	67	59	61	56	60	61	54	52	46
% Scoring Above 25th RP	83	85	81	83	83	83	83	79	77	75
Total Spelling	N=28493	N=22289	N=15531	N=11524	N=6793	N=6685	N=5497	N=	N=	N=
RPR for "Avg." Student Score	57	60	55	57	47	58	54			
% Scoring Above 75th RP	35	30	28	30	17	26	19			
% Scoring Above 50th RP	63	61	60	58	49	62	61			
% Scoring Above 25th RP	84	83	78	86	72	82	83			

1. RP stands for Reference Percentile.
2. RPR stands for Reference Percentile Rank.
3. The RPR is based on the Mean Reference Normal Curve Equivalent (MRNCE) score for each group.
4. In order to protect student confidentiality, asterisks appear where scores are based on 10 or fewer students.

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Local intranet

State Internet Reporting: It is anticipated that CTB will provide internet reporting as in the previous years of the program.

Report	Mode	Scores	# of Copies (each mode)	Type of Select
Internet Summary Reports (English text only)	School, District, County & State	Total N by Grade NOTE: All n-counts = total number of students tested. ----- By Total Reading, Total Mathematics, Total Language, & Spelling: RP of the MRNCE- TITLE: "RP for 'Avg.' Student Score" % of students above the 75 th RP: Based on Cumulative N-count % of students above the 50 th : Based on Cumulative N-count % of students above the 25 th : Based on Cumulative N-count	1	Grades 2-11 Eight total populations: 1) All students (mandatory/"Less than 12 months" non-mandatory/"12 months or more," and blank coded EL) 2) Mandatory only (coded as "Less than 12 months") 3) Non-mandatory only (coded as "12 months or more") - All data excludes students identified as Special Accommodations - Exclude Grades 1 and 12 - Suppress SPELLING for Grades 9-11 only - Suppress WORD ANALYSIS - Suppress STUDY SKILLS

***NOTE:** Two of the six populations will be loaded to CTB's website.

State Internet Reporting Data Files: The deliverable files are described in the table below.

Report	Mode	Scores	# of Copies (each mode)	Type of Select
Data Files on the website identified as "Research Documents" in two formats: Fixed-length ASCII Tab-delimited ASCII Both formats will be provided in both Mac and PC.	School, District, County & State	Total N by Grade NOTE: All n-counts = total number of students tested. ----- By Total Reading, Total Mathematics, Total Language, & Spelling: RP of the MRNCE-TITLE: "RP for 'Avg.' Student Score" % of students above the 75 th RP: Based on Cumulative N-count % of students above the 50 th RP: Based on Cumulative N-count % of students above the 25 th RP: Based on Cumulative N-count	1	Grades 2-11 Three populations per mode: 1) All students (<u>mandatory/" Less than 12 months," non-mandatory/"12 months or more," and blank coded EL</u>) 2) Mandatory only (coded as "Less than 12 months") 3) Non-mandatory only (coded as "12 months or more") - All data excludes students identified as Special Accommodations - Exclude Grades 1 and 12 - Suppress SPELLING for Grades 9-11 only - Suppress WORD ANALYSIS - Suppress STUDY SKILLS

State Internet Reporting Data Files: The deliverable files are described in the table below.

Report	Mode	Scores	# of Copies (each mode)	Type of Select
Data files on the website identified as "Research Documents" in two formats: Fixed-length ASCII Tab-delimited ASCII and Both formats will be provided for both Mac and PC.	School, District, County & State	Total N by Grade NOTE: All n-counts = total number of students tested. ----- By Total Reading, Total Mathematics, Total Language, & Spelling: RP of the MRNCE-TITLE: "RP for 'Avg.' Student Score" % of students above the 75 th RP: Based on Cumulative N-count % of students above the 50 th RP: Based on Cumulative N-count % of students above the 25 th RP: Based on Cumulative N-count	1	Grades 2-11 Two populations per mode: 1) All students (<u>mandatory/"Less than 12 months," non-mandatory/" 12 months or more"</u> and blank <u>coded EL</u>) 2) Mandatory only (coded as "12 months less") 3) Non-mandatory only (coded as "12 months or more") <ul style="list-style-type: none"> • All data excludes students identified as Special Accommodations • Exclude Grades 1 and 12 • Suppress Spelling for Grades 9-11 only • Suppress Word Analysis • Suppress Study Skills

Proposed Timeline

A proposed timeline follows. This timeline provides timing and task responsibility for each step in the SABE/2 STAR 2002 process. The major deliverable dates correspond to the invoice dates on the Cost Proposal that follows.

Proposed SABE/2 STAR 2002 Timeline

Date	Task
09/20/02	Meeting: CTB and CDE Planning Meeting in Sacramento
09/16/02-10/22/02	Develop packet of materials and ancillaries (order forms, TCM, Slipsheets, etc.) for CDE approval.
1/11/03-3/11/03	Programming front-end scan and raw score edit programs for the answer sheet, answer booklet, and slip sheet
10/15/02	Confirm 800# up and working and staffed for calls from 7:am-6:pm (Phone: 888-282-0525; FAX: 888-282-0224)
10/15/02	Board approval of Final Regulations/Amendments
10/11/02-1/12/03	CTB receives CDE approvals to print all test materials
10/01/02	In-site delivery of SABE/2 STAR District Coordinator packets (Materials Quantity/Address Form, Optional Materials Order Form, Scoring Services Order Form, Optional Scoring Services Order Form-Grade 1, Precode Order Form, TestMate Clarity, & Pre-Test Workshop Info.)
11/15/02	CTB receives all enrollment forms with contact information and n-counts for Large Print
12/03/02	CDE approval of CTB's precode layout (for districts precoding answer sheets/slipsheets).
12/07/02	In-site: Precode layout to districts precoding answer sheets
1/10/03-3/11/03	Programming back end reporting programs
01/22/03	TCM Camera Copy complete
01/22/03-02/19/03	TCM Printing
01/24/03	Pick and pack of materials begins
01/30/03	CTB receives all Materials Quantity/Address Forms and order forms from the sites
02/12/03 - 04/13/03	CTB sends materials to districts
02/18/03	Early testing window begins (information needed from districts for precoding 3 weeks prior to testing)
03/05/03	Earliest receipt of test materials for scoring (from districts who participated in early testing)
03/17/03 5/23/03	Testing window (information needed from districts for precoding 3 weeks prior to testing)
05/23/03-05/31/03	Latest make-ups testing window
06/16/03	Last day for CTB to receive materials from sites for scoring.
07/30/03	All scoring deliverables (reports and GRTs/diskettes) complete in state and district sites
08/15/03	State data available on CTB's website (with link to CDE website).
08/29/03	State evaluates CTB's performance

Invoice dates will be subject to completion of each of the component tasks.

Cost Proposal

CTB/McGraw-Hill is pleased to provide costs for the SABE/2 STAR 2003. The costs shown in this section correspond to the information and specifications found in our proposal. Costs for each task are provided separately. If changes are made to one task, it may have an impact on all other tasks so that re-pricing of the entire proposal may be required after any negotiation process.

CTB submits the following proposed costs and invoice schedule. This schedule includes a detailed listing of the costs for each component task by fixed and variable costs.

Costs provided by Task:

Case Count= 100,000 – 126,999	Fixed	Variable n=100,000	Variable per pupil in range	Total n=100,000	Total per pupil n=100,000
A. Test Materials	\$104,558	\$266,792	\$2.67	\$371,250	
B. Delivery of tests	\$157,734	\$142,925	\$1.43	\$300,659	
C. Test processing	\$169,276	\$77,285	\$0.77	\$246,561	
D. Reporting	\$100,026	\$89,990	\$0.90	\$190,016	
E. Reporting to State	\$100,026	\$	\$	\$100,026	
Total	\$631,520	\$576,992	\$5.77	\$1,208,512	\$12.09

Case Count 127,000 – 149,999	Fixed	Variable n=127,000	Variable per pupil in range	Total n=127,000	Total per pupil n=127,000
A. Test Materials	\$ 104,458	\$ 293,112	\$ 2.31	\$ 397,570	
B. Delivery of tests	\$ 157,734	\$ 158,657	\$ 1.25	\$ 316,391	
C. Test processing	\$ 169,276	\$ 83,362	\$ 0.66	\$ 252,638	
D. Reporting	\$ 100,026	\$ 99,497	\$ 0.78	\$ 199,523	
E. Reporting to State	\$ 100,026	\$		\$ 100,026	
Total	\$ 631,520	\$ 634,626	\$ 5.00	\$1,266,148	\$ 9.97

Case Count 150,000 – 199,999	Fixed	Variable n=150,000	Variable per pupil in range	Total n=150,000	Total per pupil n=150,000
A. Test Materials	\$ 104,458	\$ 320,786	\$ 2.14	\$ 425,244	
B. Delivery of tests	\$ 157,734	\$ 171,509	\$ 1.14	\$ 329,243	
C. Test processing	\$ 169,276	\$ 92,107	\$ 0.61	\$ 261,383	
D. Reporting	\$ 100,026	\$ 109,575	\$ 0.73	\$ 209,601	
E. Reporting to State	\$ 100,026	\$		\$ 100,026	
Total	\$ 631,520	\$ 693,977	\$ 4.62	\$1,325,497	\$ 8.84

Costs provided by Task (continued):

Case Count 200,000 – 299,999	Fixed	Variable n=200,000	Variable per pupil in range	Total n=200,000	Total per pupil n=200,000
A. Test Materials	\$ 104,458	\$ 385,367	\$ 1.93	\$ 489,825	
B. Delivery of tests	\$ 157,734	\$ 207,505	\$ 1.04	\$ 365,239	
C. Test processing	\$ 169,276	\$ 110,105	\$ 0.55	\$ 279,381	
D. Reporting	\$ 100,026	\$ 129,161	\$ 0.65	\$ 229,187	
E. Reporting to State	\$ 100,026			\$ 100,026	
Total	\$ 631,520	\$ 832,138	\$ 4.17	\$ 1,463,658	\$ 7.32

Case Count 300,000 –	Fixed	Variable n=300,000	Variable per pupil in range	Total n=300,000	Total per pupil n=300,000
A. Test Materials	\$ 104,458	\$ 520,880	\$ 1.74	\$ 625,338	
B. Delivery of tests	\$ 157,734	\$ 279,497	\$ 0.93	\$ 437,231	
C. Test processing	\$ 169,276	\$ 149,277	\$ 0.50	\$ 318,553	
D. Reporting	\$ 100,026	\$ 177,862	\$ 0.59	\$ 277,888	
E. Reporting to State	\$ 100,026			\$ 100,026	
Total	\$ 631,520	\$ 1,127,516	\$ 3.76	\$ 1,759,036	\$ 5.86

Optional Services

CTB also offers districts the option to pre-code their answer documents. This is a process we strongly support since it helps to eliminate errors in the reporting process. Set-up costs for pre-coding are included in the task costs as in the previous year. Pre-coding has been described in the Scope of Work. We delineate the cost to districts.

Also included is the cost of materials to be charged to those districts who over order materials and do not send them in for scoring. Though one Examiner’s Manual is provided per package of five, some districts may wish to order additional manuals. Manuals can be ordered at the price noted in the chart on the following page.

Optional Services

Service	Levels 2 – 3	Levels 4-6
Pre-coding Services	\$.58 per slipsheet*	\$.35 per answer sheet
Examiner’s Manuals	\$11.50 per manual	\$11.50 per manual
Additional Materials	\$5.52 per student	\$ 5.52 per student

Includes cost of slip-sheet.

Editing Services

Service	All Levels
Online editing of student demographic data required for zero tolerance	\$2.60 per student

Invoice Dates

The dates that follow are the anticipated dates of invoicing.

Task	Invoice Date
A. Test Materials production or publication	1/15/03
B. Delivery of test materials to school districts	5/14/03
C. Test processing, scoring and analysis	7/15/03
D. Reporting of test results to school districts	7/30/03
E. Reporting to State including electronic files	8/15/03



SEPTEMBER 2003 AGENDA

SUBJECT California High School Exit Examination (CAHSEE): Including, but not limited to, an Update on Standards Setting.	X	ACTION
	X	INFORMATION
		PUBLIC HEARING

Recommendation:

Take action as deemed necessary and appropriate.

Summary of Previous State Board of Education Discussion and Action

The first standards setting for the CAHSEE was based on the test results of volunteer ninth graders from spring 2001. At that time, the SBE set the pass score at 350 on a scale of 250 to 450. For mathematics, that is 55 percent correct and for English-language arts, it is 60 percent correct. Since that time, Assembly Bill (AB) 1609 passed. This bill prohibited ninth graders from taking the CAHSEE in order to have a census testing of all tenth graders. SBE directed the California Department of Education (CDE) to conduct a standards setting on the first census administration of the CAHSEE, which was in spring 2003.

Summary of Key Issue(s)

Educational Testing Service (ETS) will conduct a standards setting September 18-20, 2003, using the Bookmark Method. This method was used by the American Institutes for Research for the first standards setting in 2001. A brief description of the Bookmark Method and the process that will be used in the standards setting is attached. This item will come back to SBE in November for action, with the results of the standards setting, for the SBE to reevaluate the current cut scores on CAHSEE.

The primary reason for conducting a second standards setting is because the original data was from volunteer ninth graders, not tenth graders for whom the exam is mandatory. The voluntary versus mandatory nature of the test administration may have provided incomplete data, particularly in subgroups. Census testing will provide valid data, as well as a better picture, of the overall performance of a single cohort of students at one point in time.

Conducting a standards setting based on a census administration of all tenth graders in 2003 may also produce different results because according to the AB 1609 Study Report, standards based instruction and instructional materials were further along in the implementation process for 2003 than in 2001.

Fiscal Analysis (as appropriate)

None.

Attachment(s)

Attachment(s)

Attachment 1 Standards Setting Methodology for CAHSEE Abstract (Pages 1-2)

Standard Setting Methodology for CAHSEE

Abstract

Educational Testing Service (ETS) will facilitate a standard setting workshop September 18–20, 2003, to reevaluate the current cut scores for the English-language arts and mathematics portions of the CAHSEE. The standards setting will be based on the results of the first census administration held in spring 2003. California Department of Education (CDE) has recruited participants for four panels to participate in the workshop—two panels for English-language arts and two panels for mathematics. One panel in each subject area will be composed primarily of California English-language arts and mathematics teachers and administrators while the other will be composed primarily of stakeholders such as business and community people.

ETS will use the Bookmark Method that was used in the first standards setting for the CAHSEE in May 2001. This Method requires that panelists work through a test booklet that has been reordered from the easiest items to the hardest items based on item difficulty. That is, the items will be ordered based on how well students performed on them, so the items that students answered correctly most often will be followed by those they were more likely to answer incorrectly. Panelists will be asked to place a bookmark at the point in the ordered test book at which they believe students have demonstrated sufficient knowledge in that subject area to graduate. The Bookmark Method is a procedure for setting performance standards or cut points that has been used by ETS in more than 20 states and has withstood legal challenges.

Each panel will be comprised of approximately 20 panelists. They will be divided into three tables of six to seven panelists per table. One person from each table will be the table leader. The table leaders will receive extra training on facilitating table discussions. Group discussions are conducted at the table level to ensure that everyone has a chance to share their opinion. Panelists will be trained on the Bookmark Method. The panelists will receive the following instructions for placing a bookmark.

1. Read the first item in the ordered item booklet and identify the knowledge and skills required to respond successfully to the item.
2. Review the definition for passing minimally and compare it to the course standards.
3. Find the location in the item set that separates groups of examinees into those who demonstrate sufficient knowledge to pass from those who do not have sufficient knowledge to pass and then place a bookmark at that location in the ordered item set.

Panelists will be split into subject-specific groups to practice the method, review the content standards for their subjects, familiarize them with the definition for passing minimally, and begin the standard setting activities. Standard setting will begin with a review of the ordered item booklet and then proceed with three rounds of placing a bookmark. Key questions that will be

asked of the panelists are: 1) What does a student have to know and be able to do to answer this item correctly; and 2) What makes this item more difficult for a student than the preceding item. Results will be summarized and provided to CDE and the State Board of Education. Summary data will include the impact data, that is, the percentage of students who would pass the test, broken out subgroups. This information will be provided for the recommended cut score as well as alternate cut scores based on standard errors.



SEPTEMBER 2003 AGENDA

SUBJECT California High School Exit Examination (CAHSEE) Adopt Proposed Title 5 Regulations	X	ACTION
	X	INFORMATION
		PUBLIC HEARING

Recommendation:

Consider comments received during the public comment period and at the public hearing and take action on the regulations.

Summary of Previous State Board of Education Discussion and Action

At its July 2003 meeting, SBE approved the Notice of Proposed Rulemaking, the proposed amendments to the CAHSEE Regulations, and the start of the 45-day public comment process.

Summary of Key Issue(s)

Prior to the July 2003 SBE meeting, CAHSEE Regulations were amended to reflect changes in the statute or to correct errors or make revisions for clarity or consistency. The substantive revisions were identified for the SBE at its July meeting.

The Notice of Proposed Rulemaking and proposed CAHSEE Regulations were mailed out on July 25, 2003, and the public hearing was set for 3:00 p.m. on Monday, September 8, 2003. Public comments can be submitted in writing until 5:00 p.m. on the day of the public hearing. In addition to the comments summarized, the Last Minute memorandum will provide a summary and respond to public comments to date. An audiotape of the public hearing will be made available to the Board members. CDE will summarize all remaining public comments and recommend, at the September 10, 2003, meeting, whether or not the SBE should adopt the regulations or send them out for a 15-day public comment period. CDE would only recommend sending the regulations out again in response to a public comment that warranted a substantive change.

Because the fiscal review determined that there was no fiscal impact, once SBE adopts the regulations, they go to the Office of Administrative Law (OAL) for review and finalization. CDE would like to see the revised regulations finalized and incorporated in Title 5 Regulations prior to the February 2004 administration.

Fiscal Analysis (as appropriate)

None.

Attachment(s)

Attachment 1 [Title 5. EDUCATION, California State Board of Education, Notice of Proposed Rulemaking, California High School Exit Examination \(Pages 1-4\)](#)

Attachment 2 [Proposed Regulations, Title 5. EDUCATION, Division 1. State Department of Education, Chapter 2. Pupils, Subchapter 6. California High School Exit Examination, Article 1. General \(Pages 1-20\)](#)

Attachment 3 [California High School Exit Exam \(CAHSEE\) Regulations, Summary of Written Comments Received \(Pages 1-1\)](#)

CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street; P.O. Box 944272
Sacramento, CA 95814-5901



TITLE 5. EDUCATION

CALIFORNIA STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

California High School Exit Examination

[Notice published July 25, 2003]

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

The State Board will hold a public hearing beginning at **3:00 p.m. on Monday, September 8, 2003**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on Monday, September 8, 2003**. The Board will consider only written comments received by the Regulations Adoption Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
Telephone: (916) 319-0641
E-mail: dstrain@cde.ca.gov

AUTHORITY AND REFERENCE

Authority: Section 33031, Education Code.

Reference: Sections 48980, 49068, 52504, 56101, 56365, 60850, 60851, and 60855, Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The State Board of Education proposes to adopt amendments to Sections 1200 to 1225 in Title 5 of the California Code of Regulations (CCR). These sections concern the administration of the California high school exit examination (CAHSEE) that require each pupil completing grade 12 or adult school student to successfully pass the high school exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school. These sections also concern the administration of the examination in each public school and state special school that provides instruction in grades 10, 11, and 12. Education Code section 33031 authorizes the State Board of Education to adopt regulations to implement, interpret and make specific these requirements.

Senate Bill 2 was enacted in June 1999 to establish the CAHSEE. The examination is offered in English/language arts and mathematics and is aligned to state content standards in these content areas.

In October 2002, Education Code section 60851 was amended effective January 1, 2003, which requires the revision and addition of regulations to clarify the underlying statute. Senate Bill (SB) 2 was enacted in June 1999. In October of 2002, Education Code section 60851 was amended by Senate Bill 1476 and will become effective January 1, 2003. In addition, the previously adopted regulations for CAHSEE have been revised twice, thus existing regulations were reviewed in total to ensure that all sections are consistent with each other, and to address new issues and the new amendments to Section 60851.

The purpose of the proposed regulations is to guide districts and schools in the administration of the high school exit examination, including but not limited to definitions, data requirements, test security, and apportionment.

Section 1200 provides definitions. Sections 1203 to 1211.5 deal with administration issues, such as responsibilities of district and school test coordinators and test security. Sections 1215 to 1219.5 address accommodations, modifications and waivers for special needs students. Section 1220 specifies how cheating during test administration will be handled. Section 1225 describes how funds will be apportioned to school districts.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

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

Cost 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 State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (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.

Significant effect on housing costs: None.

Affect on small businesses: The proposed regulations will have no effect on small businesses because they only relate to the administration of the high school exit exam in public schools. The proposed regulations do not impose additional workload on small businesses or contractors funded by the Department.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board 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 substance of the proposed regulations should be directed to:

Jan Chladek, Manager
California Department of Education
Standards and Assessment Division
1430 N Street, Suite 5408
Sacramento, CA 95814
E-mail: jchladek@cde.ca.gov
Telephone: (916) 319-0575

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to Regulations Adoption Coordinator, or to the backup contact person, Najia Rosales, Analyst, at (916) 319-0584.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/regulations>.

1 **Title 5. EDUCATION**

2 **Division 1. State Department of Education**

3 **Chapter 2. Pupils**

4 **Subchapter 6. California High School Exit Examination**

5 **Article 1. General**

6 *Amend Sections 1200, 1203, and 1204 to read:*

7 **§ 1200. Definitions.**

8 For the purposes of the high school exit examination, the following definitions shall apply:

9 (a) "Section," "portion," and "part(s)" of the examination shall refer to either the English/language
10 arts section of the high school exit examination or the mathematics section of the high school exit
11 examination.

12 (b) ~~An "Test administration" means an eligible pupil's or eligible adult student's taking both the~~
13 ~~English/language arts and mathematics sections of the high school exit examination or either section~~
14 ~~during a test cycle is the period of time starting with the delivery of the secure testing materials to the~~
15 ~~district and ending with the return shipment of materials to the test publisher, and includes the period of~~
16 ~~time during which eligible pupils or eligible adult students take one or both sections of the examination.~~

17 (c) ~~"Test cycle" means one of the opportunities provided each year by the Superintendent of Public~~
18 ~~Instruction for an eligible pupil or eligible adult student to take the high school exit examination.~~

19 (c)(d) "Grade level" for the purposes of the high school exit examination means the grade assigned to
20 the pupil by the school district at the time of testing.

21 (d)(e) "Eligible pupil" ~~means one is a person who is~~ is a person who is enrolled in a California public school in ~~any of~~
22 grades 10, 11, or 12, including those pupils placed in a non-public school through the IEP process
23 pursuant to Education Code section 56365, who has not passed either the English/language arts section or
24 the mathematics section of the high school exit examination.

25 (e)(f) "Eligible adult student" is a person ~~who is~~ enrolled in an adult school operated by a school
26 district ~~and who is working to attain a high school diploma and~~ has not passed either the English/language
27 arts section or the mathematics section of the high school exit examination. This term does not include
28 pupils who are concurrently enrolled in high school and adult school.

29 (f) "District coordinator" is an employee of the district designated by the superintendent of the district
30 to oversee the administration of the high school exit examination within the district.

31 (g) "Test site coordinator" is an employee of the district designated by the district coordinator or the
32 superintendent or a person assigned by a nonpublic school to implement a student's IEP who oversees the
33 administration of the high school exit examination at each test site at which the examination is given.

34 (h)(g) "Test administrator" ~~means is~~ is a certificated employee of a school district, or a person assigned

1 by a nonpublic school to implement a student's Individualized Education Program (IEP), who ~~has~~
2 ~~received training in the administration of~~ administers the high school exit examination ~~from the high~~
3 ~~school exit examination district or test site coordinator to eligible pupils or eligible adult students.~~

4 (i)(h) "Test proctor" is an employee of a school district, or a person assigned by a nonpublic school to
5 implement a pupil's IEP, who has received training specifically designed to prepare him or her to assist
6 the test administrator in administration of the high school exit examination.

7 (j) "Scribe" is an employee of the school district, or a person assigned by a nonpublic school to
8 implement a pupil's IEP and is required to transcribe a pupil's or adult student's responses to the format
9 required by the examination. A family member or guardian is not eligible to be a scribe.

10 (k)(i) "School districts" includes school districts, county offices of education, and any independent
11 charter school that ~~does~~ is not elect to be part of the school district or county office of education that
12 granted the charter.

13 (l) "Department" is the California Department of Education.

14 (m) "Examination" is the high school exit examination.

15 (n) "Variation" is a change in the manner in which a test is presented or administered, or in how a test
16 taker is allowed to respond, and includes, but is not limited to, accommodations and modifications as
17 defined in Education Code section 60850.

18 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 52504, 56365, 60850 and
19 60851, Education Code.

20 **Article 2. High School Exit Examination Administration**

21 **§ 1203. Pupil or Adult Student Identification.**

22 ~~School personnel~~ Test administrators at the test site shall be responsible for the accurate identification
23 of eligible pupils or adult students who are to be administered the ~~high school exit~~ examination through
24 the use of photo-identification, or positive recognition by ~~the test administrator, or some equivalent means~~
25 ~~of identification~~ an employee of the school district.

26 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

27 **§ 1204. Grade 10 Census Testing.**

28 ~~Each school district must first offer the exam to each pupil in grade 10 only at the spring~~
29 ~~administration (March or May). If a pupil is absent at the spring administration, the school district must~~
30 ~~offer a make-up test at the next test date designated by the Superintendent of Public Instruction or on the~~
31 ~~next designated test date selected by the school district.~~

32 All eligible grade 10 pupils shall only take the examination once while in grade 10.

33 NOTE: Authority Cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

34

1

2 *Add Section 1204.5 to read:*

3 **§ 1204.5 Grades 11 and 12 Testing Dates.**

4 Pupils in grades 11 and 12 who have not yet passed one or both sections of the examination shall have
5 up to two opportunities per year to take the section (s) of the examination not yet passed. Districts shall
6 not test eligible pupils in grades 11 and 12 in successive administrations within a school year. Eligible
7 pupils in grades 11 and 12 should be offered appropriate remediation or supplemental instruction before
8 being retested. Eligible pupils shall be provided one opportunity to pass the examination after completion
9 of other grade 12 requirements.

10 NOTE: Authority Cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

11

12 *Amend Sections 1205, 1206, 1207 to read:*

13 **§ 1205. ~~Documentation~~ School District Information.**

14 School districts shall maintain a summary data file, as set forth below, record of all pupils ~~and adult~~
15 ~~students~~ who participate in each test ~~eyele~~ administration of the ~~high school exit~~ examination. This
16 summary data file record shall include the following information for (1) the English/language arts section,
17 and (2) the mathematics section, for each test ~~eyele~~ administration:

18 (a) The date on which each section of the examination was ~~offered~~ taken.

19 (b) The full names of each pupil ~~and adult student~~ who took each section of the examination.

20 (c) The grade level of each pupil ~~who took~~ at the time each section of the examination was taken.

21 (d) Whether each pupil ~~or adult student~~ passed or did not pass the section or sections of the
22 examination taken has satisfied the requirement to successfully pass the examination for each section or
23 sections of the examination taken.

24 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851~~(d)~~, Education Code.

25 **§ 1206. Pupil or ~~Adult Student~~ Permanent Record Information.**

26 (a) School districts shall maintain in each pupil's ~~or adult student's~~ permanent record the following
27 information:

28 (1) The date on which the pupil ~~or adult student~~ took each section of the examination.

29 (2) Whether the pupil ~~or adult student~~ passed or did not pass each section of the examination taken
30 has satisfied the requirement to successfully pass the examination for each section or sections of the
31 examination taken.

32 (b) The ~~record required by Section 1205~~ shall be created and the information required by subdivision

33 (a) of this section shall be entered in each pupil's ~~or adult student's~~ permanent record ~~prior to the~~

34 subsequent test cycle within 60 days of receiving the electronic data files from the test publisher.

1 (c) Whenever a pupil transfers from one school district to another, the new district shall request the
2 pupil's examination results as part of the permanent record in compliance with Education Code section
3 49068.

4 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49068 and 60851(a) and
5 (d), Education Code.

6 **§ 1207. Data for Analysis of Pupil ~~or Adult Student~~ Performance.**

7 (a) Each school district shall provide the test publisher with an answer document with complete
8 demographic information for each grade 10 pupil enrolled at the time of the grade 10 census
9 administration.

10 (b)(a) Each school district shall provide the data collected pursuant to Section 1205 to the test
11 publisher of the high school exit examination. In addition, each school district shall provide the
12 following demographic information for each pupil tested: ~~or adult student tested for purposes of the~~
13 analyses required pursuant to Education Code section 60855:

14 (1) Pupil's full name

15 (2)(1) Date of birth

16 (3)(2) Grade level

17 (4)(3) Gender

18 (5)(4) Language fluency and home language

19 (6)(5) Special program participation

20 (7)(6) Participation in free or reduced priced meals

21 (8)(7) Enrolled in a school that qualifies for assistance under Title 1 of the ~~Improving America's~~
22 Schools Act of 1994 Elementary and Secondary Education Act

23 (9)(8) Testing accommodations or modifications used during the examination

24 (10)(9) Handicapping condition or disability

25 (11)(10) Ethnicity

26 (12)(11) District mobility, school mobility, and matriculation

27 (13)(12) Parent education

28 (14)(13) Post-high school plans

29 (c)(b) The demographic information is for the purposes of aggregate analyses only and shall be
30 provided to the test publisher and collected as part of the testing materials for the high school exit
31 examination.

32 (d)(e) School districts shall provide the same information for each eligible pupil enrolled in an
33 alternative or off-campus program, or for pupils placed in non-public schools, as is provided for all other
34 eligible pupils.

1 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 56365 and 60855,
2 Education Code.

3
4 *Amend Sections 1208, 1209, 1210, 1211 to read:*

5 **§ 1208. Notice of the High School Exit Examination.**

6 A school district shall maintain documentation that the parent or guardian of each pupil has ~~received~~
7 been sent written notification as required by Education Code sections 48980(~~e~~) and 60850(~~f~~)(~~1~~).

8 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 48980(~~e~~), and 60850(~~e~~) ~~and~~
9 (~~f~~), Education Code.

10 **§ 1209. High School Exit Examination District Coordinator Responsibilities.**

11 (a) On or before July 1 of each school year, the superintendent of each unified or high school
12 district shall designate from among the employees of the school district a ~~high school exit examination~~
13 district coordinator. The superintendent shall notify the ~~test publisher of the high school exit examination~~
14 of the identity and contact information, including electronic mail address if available, for the high school
15 exit examination district coordinator.

16 (b) The ~~high school exit examination~~ district coordinator, or the school district superintendent ~~or his~~
17 ~~or her designee~~, shall be available throughout the year and shall serve as the liaison between the school
18 district and the test publisher and the school district and the California Department of Education for all
19 matters related to the ~~high school exit~~ examination.

20 (b) ~~The high school exit examination district coordinator's responsibilities shall include, but not be~~
21 ~~limited to, the following:~~

22 (c) The district coordinator or the school district superintendent shall oversee the administration of the
23 examination to eligible pupils or adult students, in accordance with the manuals or other instructions
24 provided by the test publisher for administering and returning the examinations and test materials
25 including, but not limited to, the following responsibilities:

26 (1) Responding to correspondence and inquiries from the test publisher and the Department in a
27 timely manner and as provided in the test publisher's instructions and these regulations.

28 (2) Advising the test publisher of the selected administration dates for the coming year by November
29 1 of the prior year.

30 (3)(2) Determining school district and individual school examination and test material needs in
31 conjunction with the test publisher using current enrollment data.

32 (4) Completing and filing a Test Security Agreement as set forth in Section 1211.5 prior to the receipt
33 of examinations and test materials. The Test Security Agreement shall be maintained at the district office
34 for 12 months from the date signed.

1 (5) Identifying a test site coordinator for each test site and securing a signed Test Security Agreement
2 from each test site coordinator in the district and from any test administrator at a nonpublic school in
3 which a pupil has been placed by the district.

4 (6) Training all test site coordinators on the proper and secure handling of examinations and test
5 materials, on administering the examination, and on collecting, inventorying and returning all
6 examinations and test materials in a secure manner.

7 ~~(7)(3) Overseeing the acquisition~~ Ordering and distribution of sufficient examinations and test
8 materials ~~to~~ for eligible pupils and adult students, including completing an electronic data file as set forth
9 in section 1207, if the district chooses to have the test publisher pre-identify answer documents~~individual~~
10 ~~schools and sites.~~

11 (8) Coordinating with the school test site coordinator within any required time periods the testing
12 days for the school district and nonpublic schools which serve grade 10 through grade 12 pupils of the
13 district.

14 ~~(4) Maintaining security over the high school exit examination and test data using the procedure set~~
15 ~~forth in Section 1211. The high school exit examination district coordinator shall sign the Test Security~~
16 ~~Agreement set forth in Section 1211 prior to receipt of the test materials.~~

17 ~~(5) Overseeing the administration of the high school exit examination to eligible pupils or adult~~
18 ~~students, in accordance with the manuals or other instructions provided by the test publisher for~~
19 ~~administering and returning the test.~~

20 ~~(9)(6) Overseeing the collection of all pupil and return of all test materials and test data as required to~~
21 ~~comply with Sections 1205, 1206, and 1207 to the publisher within any required time periods.~~

22 ~~(7) Assisting the test publisher in the resolution of any discrepancies in the test information and~~
23 ~~materials.~~

24 ~~(8) Ensuring that all examinations and test materials are received from school test sites within the~~
25 ~~school district no later than the close of the school day on the school day following administration of the~~
26 ~~high school exit examination.~~

27 ~~(10)(9) Ensuring that all the examinations and test materials received from school test sites within the~~
28 ~~school district have been placed~~ are retained in a secure, locked location, in sealed boxes in which they
29 were received from the test publisher, from the time they are received in the school district until the time
30 they are delivered to the test sites ~~location by the end of the day following the administration of those~~
31 ~~tests.~~

32 (11) Ensuring delivery of examinations and test materials to the test sites no more than five (5)
33 working days before the examination is to be administered.

34 (12) Ensuring that all examinations and test materials are received from test sites no later than the

1 close of the school day on the school day following administration of the examination.

2 (13) Ensuring that all examinations and test materials received from test sites have been placed in a
3 secure school district location by the end of the day following the administration of those examinations.

4 (14)(10) Ensuring that all examinations and test materials are inventoried, packaged, and labeled in
5 accordance with instructions from the test publisher. The examinations and test materials shall be ready
6 for pick-up by the test publisher at a designated location in the school district no more than five (5)
7 working days following administration completion of the English/language arts or the mathematics
8 section examination in the school district.

9 ~~(11) Ensuring that the high school exit examinations and test materials are retained in a secure, locked~~
10 ~~location, in the unopened boxes in which they were received from the test publisher, from the time they are~~
11 ~~received in the school district until the time they are delivered to the test sites.~~

12 (15) Assisting the test publisher and the Department in the resolution of any discrepancies in the test
13 information and materials, including but not limited to, pre-identification files and the number of
14 examinations received from the test publisher and the number of examinations collected for return to the
15 test publisher.

16 (d)(e) Within seven (7) working days of completion of school district testing, the superintendent and
17 the high school exit examination district coordinator shall certify to the test publisher California
18 Department of Education that the school district has maintained the security and integrity of the
19 examination, collected all data and information as required to comply with Sections 1205, 1206, and 1207,
20 and returned all examinations and test materials, answer documents, and other materials included as part of
21 the high school exit examination in the manner and as otherwise required by the publisher Department.

22 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

23 **§ 1210. High School Exit Examination Test Site Coordinator Responsibilities.**

24 (a) Annually, the district coordinator or the superintendent of the unified or high school district shall
25 designate a high school exit examination test site coordinator for each test site, including, but not limited
26 to, each dependant charter school, each court school, and each school or program operated by a school
27 district, and nonpublic school which serves grade 10 through grade 12 pupils of the district. The designee
28 shall be an employee of the school district, or the person assigned by a non public school to implement a
29 student's Individualized Education Program (IEP) from among the employees of the school district.

30 (b) The high school exit examination test site coordinator, or the site principal or his or her designee,
31 shall be available to the high school exit examination district coordinator for the purpose of resolving
32 issues that arise as a result of the administration of the high school exit examination.

33 ~~(b) The high school exit examination test site coordinator's responsibilities shall include, but not be~~
34 ~~limited to, all of the following:~~

1 (c) The test site coordinator or the site principal shall oversee the administration of the examination to
2 eligible pupils or adult students at the test site in accordance with the manuals or other instructions
3 provided by the test publisher for administering the examination including, but not limited to, the
4 following responsibilities:

5 (1) Determining test site examination and test material needs.

6 (2) Arranging for test administration at the test site.

7 (3) Training the test administrator(s), ~~and~~ test proctors, and scribes as provided in the test publisher's
8 manual.

9 (4) Completing ~~the a~~ Test Security Agreement and Test Security Affidavit as set forth in Section
10 1211.5 prior to the receipt of examinations and test materials.

11 (5) Overseeing test security requirements, including collecting and ~~filling~~ delivering all completed Test
12 Security Affidavit forms ~~from~~ to the school district office from the test administrators and other site
13 personnel involved with testing. All Test Security Affidavits shall be maintained for 12 months from the
14 date signed.

15 ~~(6)(7)~~ Overseeing the acquisition of examinations from the school district and the distribution of
16 examinations to the test administrator(s).

17 ~~(7)(6)~~ Maintaining security over the examination and test data as follows: required by Section 1211.

18 ~~(8) Overseeing the administration of the high school exit examination to eligible pupils or adult~~
19 ~~students at the test site.~~

20 (A) Delivering the examinations and test materials only to those persons who have executed the Test
21 Security Affidavit and who are administering the examination on the date of testing.

22 (B) Ensuring that strict supervision is maintained over each pupil or adult student who is being
23 administered the examination both while the pupil or adult student is in the room in which the
24 examination is being administered and during any period in which the pupil or adult student is, for any
25 purpose, granted a break during testing.

26 ~~(8)(4)~~ Overseeing the collection of all pupil ~~or adult student~~ data as required to comply with
27 Sections 1205, 1206, and 1207 of these regulations.

28 (9) Overseeing the collection and return of all testing materials to the ~~high school exit examination~~
29 district coordinator no later than the close of the school day on the school day following administration of
30 the ~~high school exit~~ examination.

31 (10) Assisting the ~~high school exit examination~~ district coordinator and the test publisher in the
32 resolution of any discrepancies between the number of examinations received from the ~~high school exit~~
33 ~~examination~~ district coordinator and the number of examinations collected for return to the ~~high school~~
34 ~~exit examination~~ district coordinator.

1 ~~(d)(12)~~ Within three (3) working days of completion of site testing, the site principal and the high
2 school exit examination test site coordinator shall certify to the high school exit examination district
3 coordinator that the test site has maintained the security and integrity of the examination, collected all
4 data and information as required, and returned all examinations and test materials, answer documents, and
5 other materials included as part of the high school exit examination in the manner and as otherwise
6 required by the test publisher.

7 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851~~(e)~~, Education Code.

8 **§ 1211. High School Exit Examination Test Security.**

9 ~~(a) High school exit examination test site coordinators shall ensure that strict supervision is~~
10 ~~maintained over each pupil or adult student who is being administered the high school exit examination~~
11 ~~both while the pupil or adult student is in the room in which the test is being administered and during any~~
12 ~~period in which the pupil or adult student is, for any purpose, granted a break from testing.~~

13 ~~(a)(b)~~ Access to the high school exit examination materials is limited to pupils taking the examination
14 for the purpose of graduation from high school and adult students taking the examination for the purpose
15 of obtaining a high school diploma of graduation, and those who have signed the security affidavit or
16 agreements, including employees of a school district directly responsible for administration of the
17 examination, and persons assigned by a nonpublic school to implement students' IEPs.

18 (b) To maintain the security of the examination, all district and test site coordinators are responsible
19 for inventory control and shall use appropriate inventory control forms to monitor and track test
20 inventory.

21 (c) The security of the examinations and test materials that have been delivered to the school district
22 is the sole responsibility of the school district until all examinations and test materials have been
23 inventoried, accounted for, and delivered to the common or private carrier designated by the test
24 publisher.

25 (d) Once materials have been delivered to the school district, secure transportation of the
26 examinations and test materials within a school district including to non-public schools (for students
27 placed through the IEP process), court and community schools, and home and hospital care, is the
28 responsibility of the school district.

29 (e) No examination may be administered in a private home or location except by a test administrator
30 as defined in Section 1200(h) who signs the Test Security Affidavit as set forth in Section 1211.5. No
31 examination shall be administered to a pupil by the parent or guardian of that pupil. This subdivision
32 does not prevent classroom aides from being a proctor and assisting in the administration of the
33 examination under the supervision of a certificated school district employee provided that the classroom
34 aide does not assist his or her own child and that the classroom aide signs the Test Security Affidavit as

1 set forth in Section 1211.5.

2 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60851 and 60850,
3 Education Code.

4

5 *Add Section 1211.5 (Title). Remove language from Section 1211 and place into Section 1211.5 to read:*

6 **§ 1211.5. High School Exit Examination Test Security Forms.**

7 ~~(a)(e)~~ All ~~high school exit examination~~ district and test site coordinators shall sign the California High
8 School Exit Examination Test Security Agreement set forth in subdivision (b).

9 ~~(b)(d)~~ The California High School Exit Examination Test Security Agreement shall be as follows:

10 CALIFORNIA HIGH SCHOOL EXIT EXAMINATION
11 TEST SECURITY AGREEMENT

12 (1) The coordinator will take all necessary precautions to safeguard all ~~tests~~ examinations and test
13 materials by limiting access to persons within the school district with a responsible, professional interest
14 in the ~~test's~~ examination's security.

15 (2) The coordinator will keep on file the names of persons having access to examinations and test
16 materials. All persons having access to the materials shall be required by the coordinator to sign the
17 California High School Exit Examination Test Security Affidavit that will be kept on file in the school
18 district office.

19 (3) The coordinator will keep the ~~tests~~ examinations and test materials in a secure, locked location,
20 limiting access to only those persons responsible for test security, except on actual testing dates as
21 provided in California Code of Regulations, Title 5, Division 1, Chapter 2, Subchapter 6.

22 By signing my name to this document, I am assuring that I ~~and anyone having access to the test~~
23 ~~materials~~ will abide by the above conditions.

24 ~~By~~ Signed: _____

25 Print name: _____

26 Title: _____

27 School District: _____

28 Date: _____

29 ~~(e)~~ Each ~~high school exit examination test site coordinator~~ shall ~~deliver the examinations and test~~
30 ~~materials only to those persons actually administering the high school exit examination on the date of~~
31 ~~testing and only upon execution of the California High School Exit Examination Test Security Affidavit~~
32 ~~set forth in subdivision (g).~~

33 ~~(c)(f)~~ All persons having access to the California High School Exit Examination, including but not
34 limited to the ~~high school exit examination~~ site principal, test site coordinator, test administrators, test

1 proctors, scribes, and persons assigned by a nonpublic school to implement students' IEPs shall
2 acknowledge the limited purpose of their access to the test examination by signing the California High
3 School Exit Examination Test Security Affidavit set forth in subdivision ~~(g)~~(d).

4 ~~(d)~~(g) The California High School Exit Examination Test Security Affidavit shall be as follows:

5 CALIFORNIA HIGH SCHOOL EXIT EXAMINATION
6 TEST SECURITY AFFIDAVIT

7 I acknowledge that I will have access to the ~~high school exit examination~~ and test materials for the
8 purpose of administering the test examination. I understand that these materials are highly secure, and it
9 is my professional responsibility to protect their security as follows:

10 (1) I will not divulge the contents of the test examination to any other person.

11 (2) I will not copy any part of the test examination or test materials.

12 (3) I will keep the test examination secure until the test examination is actually distributed to pupils or
13 adult students.

14 (4) I will limit access to the test examination and test materials by test examinees to the actual testing
15 periods.

16 (5) I will not permit pupils or adult students to remove examinations or test materials from the room
17 where testing takes place.

18 (6) I will not disclose, or allow to be disclosed, the contents of, or the scoring keys to, the test
19 examination-instrument.

20 (7) I will return all examinations and test materials to the designated ~~high school exit examination~~ test
21 site coordinator upon completion of the test examination.

22 (8) I will not interfere with the independent work of any pupil or adult student taking the examination
23 and I will not compromise the security of the test examination by any means including, but not limited to:

24 (A) Providing eligible pupils or adult students with access to test examination questions prior to
25 testing.

26 (B) Copying, reproducing, transmitting, distributing or using in any manner inconsistent with test
27 security all or any ~~portion~~ section of any secure ~~high school exit examinations or~~ test materials ~~booklet or~~
28 ~~document~~.

29 (C) Coaching eligible pupils or adult students during testing or altering or interfering with the pupil's
30 or adult student's responses in any way.

31 (D) Making answer keys available to pupils or adult students.

32 (E) Failing to follow security rules for distribution and return of secure ~~tests~~ examinations and test
33 materials as directed, or failing to account for all secure examinations and test materials before, during,
34 and after testing.

1 (F) Failing to follow test administration directions specified in test administration manuals.

2 (G) Participating in, directing, aiding, counseling, assisting in, or encouraging any of the acts
3 prohibited in this section.

4 Signed: _____

5 Print Name: _____

6 Position: _____

7 School: _____

8 School District: _____

9 Date: _____

10 ~~(h) To maintain the security of the high school exit examination, all high school exit examination~~
11 ~~district and test site coordinators are responsible for inventory control and shall use appropriate inventory~~
12 ~~control forms to monitor and track test inventory.~~

13 ~~(i) The security of the test materials that have been duly delivered to the school district is the sole~~
14 ~~responsibility of the school district until all test materials have been inventoried, accounted for, and~~
15 ~~delivered to the common or private carrier designated by the publisher.~~

16 ~~(j) Once materials have been duly delivered to the school district, secure transportation of the test~~
17 ~~materials within a school district (including to non-public schools, (for students placed through the IEP~~
18 ~~process), court and community schools, and home and hospital care) is the responsibility of the school~~
19 ~~district.~~

20 ~~(k) No test may be administered in a private home or location except by a test administrator as~~
21 ~~defined in section 1200 (g) who signs a security affidavit. No test shall be administered to a pupil by the~~
22 ~~parent or guardian of that pupil. This subdivision does not prevent classroom aides from assisting in the~~
23 ~~administration of the test under the supervision of a credentialed school district employee provided that~~
24 ~~the classroom aide does not assist his or her own child and that the classroom aide signs a security~~
25 ~~affidavit.~~

26 NOTE: Authority Cited: Section 33031, Education Code. Reference: Sections 60851 and 60850,
27 Education Code.

28
29 *Delete Section 1212.*

30 **~~§ 1212. Test Site Delivery.~~**

31 ~~School districts shall deliver the booklets for the high school exit examination to the school test site no~~
32 ~~more than two working days before the test is to be administered.~~

33 NOTE: Authority cited: 33031, Education Code. Reference: Section 60851, Education Code.

34

1 *Amend Section 1215 to read:*

2 **Article 3. High School Exit Examination Testing Variations/Accommodations/Modifications/Waivers**

3 **§ 1215. Timing/Scheduling Testing Variations Available to All Students.**

4 (a) School districts may provide All eligible pupils and adult students may have the following testing
5 variations: additional time to complete the examination, within the limits imposed by test security as
6 provided in Section 1211.

7 (1) extra time within a testing day.

8 (2) test directions that are simplified or clarified.

9 (b) All eligible pupils and adult students may have the following testing variations if regularly used in
10 the classroom:

11 (1) special or adaptive furniture.

12 (2) special lighting or acoustics.

13 (3) an individual carrel or study enclosure.

14 (4) test individually in a separate room provided that the pupil or adult student is directly supervised
15 by an employee of the school, district, or non-public school, who has signed the Test Security Affidavit.

16 (5) markers, masks, or other means to maintain visual attention to the examination or test items.

17 (c) If a school district proposes the use of a variation on the examination that is not listed in this
18 section, 1215.5, or 1216, the school district may submit a request for review of proposed variation in
19 administering the examination pursuant to Section 1218.

20 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

21
22 *ReNUMBER Section 1217 to 1215.5 and amend to read:*

23 **§ ~~1217~~ 1215.5. Accommodations and Modifications for Pupils or Adult Students with Disabilities.**

24 (a) ~~Where necessary to access the test,~~ Eligible pupils or adult students with disabilities shall be
25 permitted to take the high school exit examination with those accommodations listed in subsections (b)
26 through (e), if specified in the eligible that are necessary and appropriate to address the pupil's or adult
27 student's identified disability(ies) and that have been approved by their individualized education program
28 teams or 504 plan teams, including but not limited to those accommodations that the pupil or adult
29 student has regularly used during instruction and classroom assessments, provided that such
30 accommodations do not fundamentally alter what the test measures. Approved accommodations for the
31 high school exit examination must be reflected in the pupil's or adult student's individualized education
32 program IEP or Section 504 plan for use on the examination, standardized testing, or for use during
33 classroom instruction and assessments.

34 (b) Presentation ~~Accommodations~~ that do not fundamentally alter what the test measures include;

1 but may not be limited to:

2 (1) ~~Presentation accommodations: Large print versions;~~

3 ~~(2) test items enlarged through mechanical or electronic means (e.g., photocopier);~~

4 ~~(3) Braille transcriptions provided by the test publisher or a designee; markers, masks, or other~~
5 ~~means to maintain visual attention to the test or test items; reduced numbers of items per page;~~

6 ~~(4) use of manually coded or American sign language to present directions for administration.~~

7 ~~(5) audio or oral presentation on of the mathematics portion section of the test examination, provided~~
8 ~~that an audio presentation is the pupil's or adult student's only means of accessing written material.~~

9 ~~(6) use of manually coded or American sign language to present test questions on the mathematics~~
10 ~~section of the examination.~~

11 ~~(2)(c) Response accommodations include:~~

12 ~~(A) Verbal, written, or signed responses; responses made with mechanical or electronic assistance as~~
13 ~~long as the mechanical or electronic device is used solely to record the pupil's or adult student's response.~~
14 ~~If a person is required to transcribe the pupil's or adult student's responses to the format required by the~~
15 ~~examination, the transcriber shall be an employee of the school district who has signed the Test Security~~
16 ~~Affidavit.~~

17 ~~(B) Assistive devices and technologies that are regularly used during testing provided that no~~
18 ~~technology or assistive device may be used that fundamentally alters what the test measures.~~

19 ~~(1) responses marked in test booklet and transferred to the answer document by a school or district~~
20 ~~employee who has signed the Test Security Affidavit.~~

21 ~~(2) responses dictated to a scribe for selected-response items (e.g., multiple-choice test questions).~~

22 ~~(3) responses dictated to a scribe, audio recorder or speech to text converter on the writing portion of~~
23 ~~the examination, and the pupil or adult student indicates all spelling and language conventions.~~

24 ~~(4) use of word processing software with spell and grammar check tools turned off on the writing~~
25 ~~portion of the examination.~~

26 ~~(5) use of an assistive device that does not interfere with the independent work of the student on the~~
27 ~~writing portion of the examination.~~

28 ~~(d)(3) Scheduling/timing accommodations include: More frequent breaks during the regularly~~
29 ~~scheduled test session; multiple sessions, provided that a pupil or adult student does not have access to~~
30 ~~test items that will be presented in a future session or sessions.~~

31 ~~(1) testing over more than one day in consultation with the test publisher.~~

32 ~~(2) supervised breaks within a section of the examination.~~

33 ~~(3) administration of the examination at the most beneficial time of day to the pupil or adult student in~~
34 ~~consultation with the test publisher.~~

1 ~~(e)(4)~~ Setting accommodations include: ~~Special or adaptive furniture; special lighting or acoustics; an~~
2 ~~individual carrel or study enclosure; a separate room provided that the pupil or adult student is directly~~
3 ~~supervised by school personnel who have signed the Test Security Affidavit.~~

4 (1) test administered by certificated teacher to a pupil or adult student at home or in the hospital.

5 (f) The use of accommodations on the examination will not invalidate a pupil's or adult student's test
6 score or scores.

7 ~~(e) The following are modifications because they fundamentally alter what the test measures:~~

8 ~~(1) Calculators on the math portion of the test.~~

9 ~~(2) Audio or oral presentation of the English/language arts portion of the test.~~

10 ~~(d)~~(g) If the pupil's or adult student's IEP team individualized education program team or Section
11 504 plan team proposes an variation for use on the examination that has not been listed in this section,
12 1215, or 1216, the school district may submit a request for review of the proposed variation in
13 administering the examination accommodation for use on the high school exit examination that is not
14 included subdivision (b), the school district may submit a request for accommodation pursuant to Section
15 1218.

16 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60850, Education Code.

17
18 *Amend Section 1216 to read:*

19 **§ 1216. Allowable Accommodations Modifications for Pupils or Adult Students with Disabilities, ~~or~~**
20 **for English Learners.**

21 ~~The purpose of the high school exit examination is to assure that pupils and adult students who~~
22 ~~graduate from high school have demonstrated in English the skills, knowledge and abilities embodied in~~
23 ~~the state standards in English/language arts and mathematics selected for the high school exit~~
24 ~~examination. To assure that the high school exit examination is a valid measure of each pupil's or adult~~
25 ~~student's skills, knowledge and abilities in relationship to these standards, accommodations will be~~
26 ~~allowed that are necessary and appropriate to afford access to the test, consistent with federal law, so long~~
27 ~~as the accommodations do not fundamentally alter what the examination is designed to measure.~~

28 (a) Eligible pupils or adult students with disabilities shall be permitted to take the examination with
29 the following modifications if specified in the eligible pupil's or adult student's IEP or Section 504 plan
30 for use on the examination, standardized testing, or for use during classroom instruction and assessments.

31 (b) The following are modifications as defined by Education Code section 60850 because they
32 fundamentally alter what the examination measures or affect the comparability of scores:

33 (1) calculators on the mathematics section of the examination.

34 (2) audio or oral presentation of the English/language arts section of the examination.

1 (3) use of manually coded or American sign language to present test questions on the
2 English/language arts section of the examination.

3 (4) spellcheckers, grammar checkers, or word processing software programs that check or correct
4 spelling and/or grammar on the writing portion of the examination.

5 (5) mechanical or electronic devices or other assistive devices that are not used solely to record the
6 pupil's responses, including but not limited to transcribers, scribes, voice recognition or voice to text
7 software, and that identify a potential error in the pupil's or adult student's response or that correct
8 spelling, grammar or conventions on the writing portion of the examination.

9 (6) use of American sign language to provide a response to the written portion of the examination.

10 (7) English dictionary on the English/language arts section of the examination.

11 (8) mathematics dictionary on the mathematics section of the examination.

12 (c) A pupil or adult student who takes the examination with one or more modifications shall receive a
13 score marked not valid for the sections of the examination on which the modifications were used. If the
14 score is equivalent to a passing score, the pupil or adult student may be eligible for a waiver pursuant to
15 Education Code section 60851.

16 (d) If the pupil's or adult student's IEP or Section 504 plan proposes a variation for use on the
17 examination that has not been listed in this section, 1215, or 1215.5, the school district may submit a
18 request for review of proposed variations in administering the examination pursuant to Section 1218.

19 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60850(g), Education Code.

20
21 *Renumber Section 1217.5 to 1217 and amend to read:*

22 **§ 1217.5 English Language Learners.**

23 ~~English learners must read and pass the high school exit examination in English. School districts must~~
24 ~~evaluate pupils to determine if they possess sufficient English language skills at the time of the~~
25 ~~examination to be assessed with the test. If the pupil does not possess sufficient English language skills to~~
26 ~~be assessed, the school district, in addition to the instruction in reading, writing, and comprehension in the~~
27 ~~English language specified in Education Code section 60852, may provide additional time as provided in~~
28 ~~Section 1215.~~

29 School districts may provide English learner pupils or adult English learner students the following
30 testing variations:

31 (1) Flexible setting. English learners may have the opportunity to be tested in a separate room with
32 other English learners provided that the pupil or adult student is directly supervised by an employee of the
33 school, district, or non-public school, who has signed the Test Security Affidavit and the pupil or adult
34 student has been provided such a flexible setting as part of their regular instruction or assessment.

1 (2) Flexible schedule. English learners may have additional supervised breaks within a testing day.

2 (3) Flexible time. English learners may have extra time on the examination within a testing day.

3 (4) Translated directions. English learners may have the opportunity to hear a translated version of
4 the test directions and the opportunity to ask clarifying questions about the test directions in their primary
5 language.

6 (5) Glossaries. English learners may have access to translation glossaries if used regularly in the
7 classroom (English to primary language or primary language to English).

8 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60850 and 60852,
9 Education Code.

10
11 *Amend Section 1218 to read:*

12 **§ 1218. Requests for Accommodations Review Process for Proposed Variations in Administering**
13 **the Examination.**

14 (a) The school district may file a request for ~~accommodation~~ review of proposed examination
15 variations with the ~~California Department of Education~~ for a case-by-case determination of the use of
16 ~~accommodations~~ variations that are not ~~included~~ specified in Sections ~~1217(b)~~ 1215, 1215.5 or 1216.
17 Requests must be received by the ~~California Department of Education~~ at least ~~nine (9) weeks~~ 30 working
18 days in advance of the ~~pupil's or adult student's~~ proposed administration of the ~~high school exit~~
19 examination.

20 (b) The request for ~~accommodation~~ review of proposed variations in administering the examination
21 must include:

22 ~~(1) A description of the pupil's or adult student's disability(ies).~~

23 ~~(1)(2)~~ (1)(2) A description of the requested accommodation variation(s).

24 ~~(2)(3)~~ (2)(3) If applicable, a statement certification that the pupil's or adult student's individualized
25 education program IEP team or Section 504 plan team has determined specifies that the requested
26 accommodation variation is appropriate and necessary to address access the examination due to the
27 pupil's or adult student's identified disability(ies) and that such variation is currently listed in the pupil's
28 or adult student's IEP or Section 504 plan.

29 ~~(4) An explanation of how the requested accommodation would allow the pupil or adult student to~~
30 ~~access the high school exit examination.~~

31 (c) ~~The California Department of Education shall make a determination of whether the requested~~
32 ~~accommodation would fundamentally alter what the test measures. The California Department's of~~
33 ~~Education's~~ determination shall be ~~the~~ a final administrative decision for purposes of review under the
34 Administrative Procedure Act.

1 (d) The ~~California Department of Education~~ shall issue its decision within 15 working days of receipt
2 of the request for review of proposed variation on each request and shall inform the school district in
3 writing at least six (6) weeks in advance of the pupil's or adult student's proposed administration of the
4 high school exit examination.

5 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60850, Education Code.

6
7 *Delete Section 1218.5.*

8 **§ 1218.5. Use of Modifications.**

9 (a) ~~If the pupil's IEP or Section 504 Plan indicates that it is appropriate and necessary for a pupil to~~
10 ~~take the test with a modification(s) as defined in Education Code section 60850, or as specified in Section~~
11 ~~1217(c), or determined pursuant to Section 1218, the school district must then administer the test to the~~
12 ~~pupil with these modifications.~~

13 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60850 and 60851,
14 Education Code; and 34 CFR Section 300.138(a).

15
16
17 *Add Section 1218.6 to read:*

18 **§ 1218.6. Waiver Requests on Behalf of Pupils in a State Special School**

19 (a) For a pupil in a state special school who is eligible for a waiver, the state special school principal
20 shall submit a waiver request to the local governing board of the school district that placed the pupil in the
21 state special school.

22 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 56101 and 60850
23 Education Code; and 34 CFR Section 300.138(a).

24
25 *Amend Section 1219 to read:*

26 **§ 1219. Independent Work of the Pupil or Adult Student.**

27 In ~~implementing~~ administering the examination, with accommodations or modifications pursuant to
28 Section ~~1216 or 1217~~ 1215.5 or 1216, school districts shall ensure that all ~~test~~ examination responses are
29 the independent work of the pupil or adult student. School districts, ~~and~~ school district personnel,
30 including scribes, and nonpublic school personnel are prohibited from assisting any pupil or adult student
31 in determining how the pupil or adult student will respond to each question, and are prohibited from
32 leading or directing the pupil or adult student to a particular response, and from correcting, prompting or
33 otherwise influencing a response.

34 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60850, Education Code.

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Delete Section 1219.5.

§ 1219.5. Invalidation of Test Scores.

~~If a school district allows a pupil or adult student to take the high school exit examination with one or more accommodations that are determined by the California Department of Education to fundamentally alter what the test measures, that pupil's or adult student's test score or scores will be invalidated.~~

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60850, Education Code.

Amend Section 1220 to read:

Article 4. Cheating

§ 1220. Cheating.

(a) Any pupil or adult student found by the school district or its agents to have cheated or assisted others in cheating, or to have compromised the security of the ~~high school exit examination~~ shall have his or her test marked as "invalid" and the pupil or adult student shall not receive a score from that test administration.

(b) The school district shall notify each eligible pupil or adult student prior to each administration of the ~~high school exit~~ examination of the provisions of subdivision (a).

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

Amend Section 1225 to read:

Article 5. Apportionment

§ 1225. Apportionment.

(a) For each test cycle, each school district shall report to the California Department of Education the number of examinations administered.

(b) The superintendent of each school district shall certify the accuracy of all information submitted. The report required by subdivision (a) shall be filed with the State Superintendent of Public Instruction within ten (10) working days of completion of each test cycle in the school district.

(c) The amount of funding to be apportioned to the school district for the ~~high school exit~~ examination shall be ~~equal to the product of~~ calculated by multiplying the amount per administration established by the State Board of Education to enable school districts to meet the requirements of ~~subdivisions (a), (b) and (c)~~ of Education Code section 60851 by the number of times the number of tests administered to pupils and adult students in the school district tested for one or both portions of the examination as determined by the certification of the school district superintendent pursuant to subdivision (b).

1 (d) The apportionment shall be paid upon return of all secure test materials.

2 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

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State Board of Education
September 2003

California High School Exit Exam Regulations
Summary of Written Comments Received

As of August 15, 2003, 3:00 P.M., we have received one email and one letter in response to the proposed amendments to the CAHSEE regulations. The responses to date are summarized below:

- One person expressed general concerns related to reforming education in California that were not specific or applicable to the CAHSEE regulations.
- One person expressed a concern that the regulations for accommodations and modifications would lead to additional mandated costs for districts.

Last Minute Memorandum

To: STATE BOARD MEMBERS **Date:** September 9, 2003

From: Geno Flores, Deputy Superintendent, Assessment and Accountability Branch

Re: ITEM # 11

Subject: California High School Exit Examination (CAHSEE): Public Comments on Proposed Amendments to Title 5 Regulations on the CAHSEE

Please add to Item # 11.

The attached CAHSEE Regulations have been revised to incorporate substantive and technical comments from California Department of Education (CDE), State Board of Education (SBE), and Department of Finance (DOF) staff. These revisions will be sent out for a 15-day public comment period. CDE and SBE staff made several technical changes to ensure consistency in language; made substantive changes to comply with federal law regarding testing all students in grade 10 for Adequate Yearly Progress under the No Child Left Behind Act and to comply with federal law regarding the testing of English learners. Changes made at the direction of DOF were to assure that the proposed regulations would not cause mandated costs.

Four written comments were received and are attached. The only suggested change is for clarification of wording. The report on the public hearing is attached as well as the revised regulations. Attachment 7 is a replacement for Attachment 2 on the original SBE mailing.

- Attachment 4: [California High School Exit Examination Regulations Summary of Written Comments Received and Initial Responses to Written Comments. \(Pages 1-2\)](#)
- Attachment 5: [Report on Public Hearing Conducted by Staff. \(Pages 1-1\)](#)
- Attachment 6: [15-Day Notice of Modifications to Text of Proposed Regulations \(Pages 1-1\)](#)
- Attachment 7: [Proposed Regulations, Title 5. EDUCATION, Division 1. State Department of Education, chapter 2. Pupils, subchapter 6. California High School Exit Examination, Article 1. General \(Pages 1-19\)](#)

California High School Exit Examination (CAHSEE) Regulations
Summary of Written Comments Received and
*Initial Responses to Written Comments*¹

As of September 8, 2003, 5:00 P.M., three written comments regarding the proposed revisions to the CAHSEE Regulations were received by the California Department of Education (CDE) in accordance with the Administrative Procedure Act. Among the comments received:

- One general statement was made from Willie Thomas, Assistant Superintendent, Palmdale School District, regarding getting more input from stakeholders when education reforms are made.

Response: The comment does not address the substance of any of the proposed amendments or new regulations. Instead, the comment is directed at the process by which education reform legislation and regulations are enacted. The State Board of Education (SBE) has complied with all notice requirements in enacting all CAHSEE Regulations, including those included in the current rulemaking.

- One general statement was made from Larry Hoyt, Superintendent, Curtis Creek School District, regarding accommodations and modifications. He stated that the proposed revisions will result in an increase of hundreds and millions of dollars in mandated costs to districts. He believes that we are extending the modifications/accommodations beyond those who are physically disabled.

Response: The regulations do not extend the use of modifications or accommodations beyond what was permitted under the existing regulations. Rather, the proposed amended regulations seek to clarify the categories of modifications and accommodations that are permitted to be used by those who are disabled. Pupils are entitled to use modifications or accommodations only if they have an Individualized Education Program (IEP) that designates the need for such modifications or accommodations.

- Marci Jenkins, Sonoma County Office of Education, asked four questions about the proposed regulations clarifying the role of nonpublic school personnel. Two questions were not substantive including whether or not a public school employee must be present at the nonpublic school for the accurate identification of eligible pupils and clarification on the parenthetical phrase in section 1211(d) following the words nonpublic schools--for students placed through the IEP process.

Response: There were clarifying questions only and no comments or suggestions were made regarding the regulations.

¹ Subject to modification prior to the submission of the Final Statement of Reasons to the Office of Administrative Law.

The additional comments are summarized below, by section number.

1210. High School Exit Examination Test Site Coordinator Responsibilities.

Marci Jenkins, Sonoma County Office of Education, commented on section 1210(d) stating that for many nonpublic schools, there is no site principal. This section requires the site principal and the test site coordinator to certify to the district coordinator that test security was maintained.

Response: The wording on this section was changed to read the site principal or the test site coordinator.

Section 1211. High School Exit Examination Test Security.

Ms. Jenkins had an additional concern regarding section 1211(e) stating that there is not a certificated school district employee in a nonpublic school to supervise a classroom aide.

Response: The words “certificated school district employee” were changed to “test administrator” to address this concern because the definition of a test administrator includes a person assigned by a nonpublic school to implement a student’s IEP.

Section 1215.5. Accommodations for Pupils or Adult Students with Disabilities and Section 1216. Modifications for Pupils or Adult Students with Disabilities.

Dawn Parker, Student Outcomes Teacher Specialist, California School for the Deaf, had concerns regarding sections 1215(b)(4), and (6) and section 1216(b)(3) stating that the directions for administration are allowed to be translated into American Sign Language; however, CDE has not provided standardized translations for directions or for test items. She would like to have a training video with closed captions.

Response: Neither of these comments pertain to proposed regulations but are contractual issues with the testing contractor.

Her second comment regarding section 1216(b)(6) is regarding possible misinterpretation of the student’s meaning by the scribe when translating American Sign Language to English for the student’s written response.

Response: The matrix of accommodations and modifications approved by the SBE lists translating American Sign Language to English on the written portion of the exam as a modification because it is a different language than English and will not translate word for word.

CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street; P.O. Box 944272
Sacramento, CA 94244-2720
(916) 319-0827
(916) 319-0175 FAX



REPORT ON PUBLIC HEARING CONDUCTED BY STAFF

DATE: September 9, 2003
TO: Members, State Board of Education
FROM: Greg Geeting, Assistant Executive Director

SUBJECT: **California High School Exit Examination (CAHSEE)–Permanent Title 5 Regulations**

Background

At the July 2003 meeting, the State Board of Education (SBE) initiated the permanent rulemaking process regarding the California High School Exit Examination (CAHSEE). SBE directed the public hearing for this rulemaking process be conducted by staff in accordance with subdivision (b) of Section 18460 of Title 5 of the California Code of Regulations.

Report on Public Hearing

Consistent with the requirements of the Administrative Procedure Act, the public hearing regarding the proposed regulations was scheduled for Monday, September 8, 2003, at the California Department of Education, 1430 N Street, Room 1101, Sacramento, California, beginning at 3:00 p.m. An audiotape of the public hearing was made, and Maryanna Rickner will provide a copy of the audiotape to any SBE member so desiring.

The public hearing was called to order at 3:00 p.m. on the prescribed date and at the prescribed location. No one present desired to comment on the proposed regulations. The public hearing was recessed for one-half hour in the event that a potential presenter might have been delayed. The public hearing was reconvened at 3:31 p.m. No one wishing to present comments had arrived. The public hearing was adjourned at 3:32 p.m.

CALIFORNIA STATE BOARD OF EDUCATION

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September 9, 2003

15-DAY NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS

Pursuant to the requirements of Government Code section 11346.8(c), and section 44 of Title 1 of the California Code of Regulations, the State Board of Education (SBE) is providing notice of changes made to proposed regulation Section 250 which was the subject of a regulatory hearing on September 8, 2003. These changes are in response to comments received regarding the proposed regulation.

If you have any comments regarding the proposed changes that are the topic of this 15-Day Notice, SBE will accept written comments between **September 16, 2003 and September 30, 2003**, inclusive. All written comments must be submitted to the Regulations Adoption Coordinator via facsimile at (916) 319-0155; email at dstrain@cde.ca.gov or mailed to the following address no later than **5:00 p.m. on September 30, 2003**, and addressed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Suite 5319
Sacramento, California 95814
Telephone: (916) 319-0641

All written comments received by **5:00 p.m. on September 30, 2003**, 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. Please limit your comments to the modifications to the text.

SBE has illustrated changes to the original text in the following manner: regulation language originally proposed is underlined, language originally deleted is in ~~strikeout~~. The 15-Day Notice illustrates deletions from the language originally proposed using a "~~bold strikeout~~"; and additions to the language originally proposed using a "**bold double-underline**.

1 **Title 5. EDUCATION**

2 **Division 1. State Department of Education**

3 **Chapter 2. Pupils**

4 **Subchapter 6. California High School Exit Examination**

5 **Article 1. General**

6 *Amend Sections 1200, 1203, and 1204 to read:*

7 **§ 1200. Definitions.**

8 For the purposes of the high school exit examination, the following definitions shall apply:

9 (a) "Section," "portion," and "part(s)" of the examination shall refer to either the English/language
10 arts section of the high school exit examination or the mathematics section of the high school exit
11 examination.

12 (b) ~~An "Test administration" means an eligible pupil's or eligible adult student's taking both the~~
13 ~~English/language arts and mathematics sections of the high school exit examination or either section~~
14 ~~during a test cycle is the period of time starting with the delivery of the secure testing materials to the~~
15 ~~district and ending with the return shipment of materials to the test publisher, and includes the period of~~
16 ~~time during which eligible pupils or eligible adult students take one or both sections of the examination.~~

17 (c) ~~"Test cycle" means one of the opportunities provided each year by the Superintendent of Public~~
18 ~~Instruction for an eligible pupil or eligible adult student to take the high school exit examination.~~

19 (c)(d) "Grade level" for the purposes of the high school exit examination means the grade assigned to
20 the pupil by the school district at the time of testing.

21 (d)(e) "Eligible pupil" ~~means one is a person who is~~ enrolled in a California public school in any of
22 grades 10, 11, or 12, including those pupils placed in a non-public school through the **Individualized**
23 **Education Plan** (IEP) process pursuant to Education Code section 56365, who has not passed **either**
24 **both** the English/language arts section ~~or~~ and the mathematics section of the high school exit
25 examination.

26 (e)(f) "Eligible adult student" is a person ~~who is~~ enrolled in an adult school operated by a school
27 district ~~and~~ who is working to attain a high school diploma and has not passed **either both** the
28 English/language arts section ~~or~~ and the mathematics section of the high school exit examination. This
29 term does not include pupils who are concurrently enrolled in high school and adult school.

30 (f) "District coordinator" is an employee of the school district designated by the superintendent of the
31 district to oversee the administration of the high school exit examination within the district.

32 (g) "Test site coordinator" is an employee of the school district designated by the district coordinator
33 or the superintendent or a person assigned by a nonpublic school to implement a student's IEP who
34 oversees the administration of the high school exit examination at each test site at which the examination
35 is given.

1 **§ 1204.5 Grades 11 and 12 Testing Dates.**

2 Pupils in grades 11 and 12 who have not yet passed one or both sections of the examination shall have
3 up to two opportunities per year to take the section (s) of the examination not yet passed. Districts shall
4 not test eligible pupils in grades 11 and 12 in successive administrations within a school year. Eligible
5 pupils in grades 11 and 12 should be offered appropriate remediation or supplemental instruction before
6 being retested. Eligible pupils shall be provided one opportunity to pass the examination after completion
7 of other grade 12 requirements.

8 NOTE: Authority Cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

9
10 *Amend Sections 1205, 1206, 1207 to read:*

11 **§ 1205. ~~Documentation~~ School District Information.**

12 School districts shall maintain a summary data file, as set forth below, record of all pupils ~~and adult~~
13 ~~students~~ who participate in each test ~~cycle~~ administration of the ~~high school exit~~ examination. This
14 summary data file record shall include the following information for (1) the English/language arts section,
15 and (2) the mathematics section, for each test ~~cycle~~ administration:

16 (a) The date on which each section of the examination was ~~offered~~ taken.

17 (b) The full names of each pupil ~~and adult student~~ who took each section of the examination.

18 (c) The grade level of each pupil ~~who took~~ at the time each section of the examination was taken.

19 (d) Whether each pupil ~~or adult student~~ passed or did not pass the section or sections of the
20 examination taken has satisfied the requirement to successfully pass the examination for each section or
21 sections of the examination taken.

22 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851(~~d~~), Education Code.

23 **§ 1206. Pupil or ~~Adult Student~~ Permanent Record Information.**

24 (a) School districts shall maintain in each pupil's ~~or adult student's~~ permanent record the following
25 information:

26 (1) The date on which the pupil ~~or adult student~~ took each section of the examination.

27 (2) Whether the pupil ~~or adult student~~ passed or did not pass each section of the examination taken
28 has satisfied the requirement to successfully pass the examination for each section or sections of the
29 examination taken.

30 (b) The ~~record required by Section 1205 shall be created and the~~ information required by subdivision
31 (a) of this section shall be entered in each pupil's ~~or adult student's~~ permanent record prior to the
32 subsequent test cycle within 60 days of receiving the electronic data files from the test publisher.

33 (c) Whenever a pupil transfers from one school district to another, the new district shall request the
34 pupil's examination results as part of the permanent record in compliance with Education Code section
35 49068.

1 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49068 and 60851(a) and
2 ~~(d)~~, Education Code.

3 **§ 1207. Data for Analysis of Pupil ~~or Adult Student~~ Performance.**

4 (a) Each school district shall provide the test publisher with an answer document with complete
5 demographic information for each grade 10 pupil enrolled at the time of the grade 10 ~~ecensus~~
6 administration.

7 ~~(b)(a)~~ Each school district shall provide the data collected pursuant to Section 1205 to the test
8 publisher of the high school exit examination. In addition, each school district shall provide the
9 following demographic information for each pupil tested; ~~or adult student tested for purposes of the~~
10 analyses required pursuant to Education Code section 60855:

11 (1) Pupil's full name

12 ~~(2)(1)~~ Date of birth

13 ~~(3)(2)~~ Grade level

14 ~~(4)(3)~~ Gender

15 ~~(5)(4)~~ Language fluency and home language

16 ~~(6)(5)~~ Special program participation

17 ~~(7)(6)~~ Participation in free or reduced priced meals

18 ~~(8)(7)~~ Enrolled in a school that qualifies for assistance under Title 1 of the ~~Improving America's~~
19 Schools Act of 1994 Elementary and Secondary Education Act

20 ~~(9)(8)~~ Testing accommodations or modifications used during the examination

21 ~~(10)(9)~~ Handicapping condition or disability

22 ~~(11)(10)~~ Ethnicity

23 ~~(12)(11)~~ District mobility, school mobility, and matriculation

24 ~~(13)(12)~~ Parent education

25 ~~(14)(13)~~ Post-high school plans

26 ~~(c)(b)~~ The demographic information is for the purposes of aggregate analyses only and shall be
27 provided to the test publisher and collected as part of the testing materials for the high school exit
28 examination.

29 ~~(d)(c)~~ School districts shall provide the same information for each eligible pupil enrolled in an
30 alternative or off-campus program, or for pupils placed in nonpublic schools, as is provided for all other
31 eligible pupils.

32 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 56365 and 60855,
33 Education Code.

34
35 *Amend Sections 1208, 1209, 1210, 1211 to read:*

1 **§ 1208. Notice of the High School Exit Examination.**

2 A school district shall maintain documentation that the parent or guardian of each pupil has ~~received~~
3 been sent written notification as required by Education Code sections 48980~~(e)~~ and 60850~~(f)~~~~(+)~~.

4 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 48980~~(e)~~, and 60850~~(e)~~ ~~and~~
5 ~~(f)~~, Education Code.

6 **§ 1209. High School Exit Examination District Coordinator Responsibilities.**

7 (a) On or before July 1 of each school year, the superintendent of each ~~unified or high~~ school
8 district shall designate from among the employees of the school district a ~~high school exit examination~~
9 district coordinator. The superintendent shall notify the ~~test publisher of the high school exit examination~~
10 of the identity and contact information, including electronic mail address if available, for the high
11 school exit examination district coordinator. At the discretion of the superintendent, the contact
12 information may include an electronic email address.

13 (b) The ~~high school exit examination~~ district coordinator, or the school district superintendent **or his**
14 **or her designee**, shall be available throughout the year and shall serve as the liaison between the school
15 district and the ~~test publisher and the school district and the California Department of Education~~ for all
16 matters related to the ~~high school exit~~ examination.

17 (b) ~~The high school exit examination district coordinator's responsibilities shall include, but not be~~
18 ~~limited to, the following:~~

19 (c) The district coordinator or the school district superintendent **or his or her designee** shall oversee
20 the administration of the examination to eligible pupils or adult students, in accordance with the manuals
21 or other instructions provided by the test publisher for administering and returning the examinations and
22 test materials including, but not limited to, the following responsibilities:

23 (1) Responding to correspondence and inquiries from the ~~test publisher and the Department~~ in a
24 timely manner and as provided in the ~~test publisher's instructions and these regulations~~.

25 (2) Advising the test publisher of the selected administration dates for the coming year by November
26 1 of the prior year.

27 (3)~~(2)~~ Determining school district and individual school examination and test material needs in
28 conjunction with the test publisher using current enrollment data.

29 (4) Completing and filing a Test Security Agreement as set forth in Section 1211.5 prior to the receipt
30 of examinations and test materials. The Test Security Agreement shall be maintained at the district office
31 for 12 months from the date signed.

32 (5) Identifying a test site coordinator for each test site and securing a signed Test Security Agreement
33 from each test site coordinator in the district and from any test administrator at a nonpublic school in
34 which a pupil has been placed by the district.

35 (6) **Training all test site coordinators on the proper and secure handling of examinations and**

1 test materials, on administering the examination, and on collecting, inventorying and returning all
2 examinations and test materials in a secure manner.

3 ~~(6)(7)~~(3) Overseeing the acquisition Ordering and distribution of sufficient examinations and test
4 materials to for eligible pupils and adult students, including completing an electronic data file as set forth
5 in section 1207, if the district chooses to have the test publisher pre-identify answer documents individual
6 schools and sites.

7 ~~(7)(8)~~ Coordinating with the school test site coordinator within any required time periods the testing
8 days for the school district and nonpublic schools which serve grade 10 through grade 12 pupils of the
9 district.

10 ~~(4)~~ Maintaining security over the high school exit examination and test data using the procedure set
11 forth in Section 1211. The high school exit examination district coordinator shall sign the Test Security
12 Agreement set forth in Section 1211 prior to receipt of the test materials.

13 ~~(5)~~ Overseeing the administration of the high school exit examination to eligible pupils or adult
14 students, in accordance with the manuals or other instructions provided by the test publisher for
15 administering and returning the test.

16 ~~(8)(9)~~(6) Overseeing the collection of all pupil and return of all test materials and test data as required
17 to comply with Sections 1205, 1206, and 1207 to the publisher within any required time periods.

18 ~~(7)~~ Assisting the test publisher in the resolution of any discrepancies in the test information and
19 materials.

20 ~~(8)~~ Ensuring that all examinations and test materials are received from school test sites within the
21 school district no later than the close of the school day on the school day following administration of the
22 high school exit examination.

23 ~~(9)(10)~~(9) Ensuring that all the examinations and test materials received from school test sites within
24 the school district have been placed are retained in a secure, locked location, in sealed boxes in which
25 they were received from the test publisher, from the time they are received in the school district until the
26 time they are delivered to the test sites location by the end of the day following the administration of
27 those tests.

28 ~~(10)(11)~~ Ensuring delivery of examinations and test materials to the test sites no more than five (5)
29 working days before the examination is to be administered.

30 ~~(11)(12)~~ Ensuring that all examinations and test materials are received from test sites no later than the
31 close of the school day on the school day following administration of the examination.

32 ~~(12)(13)~~ Ensuring that all examinations and test materials received from test sites have been placed in
33 a secure school district location by the end of the day following the administration of those examinations.

34 ~~(13)(14)~~(10) Ensuring that all examinations and test materials are inventoried, packaged, and labeled
35 in accordance with instructions from the test publisher. The examinations and test materials shall be

1 ready for pick-up by the test publisher at a designated location in the school district no more than five (5)
2 working days following administration completion of the ~~English/language arts or the mathematics~~
3 ~~section examination~~ in the school district.

4 ~~(11) Ensuring that the high school exit examinations and test materials are retained in a secure, locked~~
5 ~~location, in the unopened boxes in which they were received from the test publisher, from the time they are~~
6 ~~received in the school district until the time they are delivered to the test sites.~~

7 (15) Assisting the test publisher and the Department in the resolution of any discrepancies in the test
8 information and materials, including but not limited to, pre-identification files and the number of
9 examinations received from the test publisher and the number of examinations collected for return to the
10 test publisher.

11 ~~(d)(e)~~ Within seven (7) working days of completion of school district testing, the superintendent and
12 the high school exit examination district coordinator shall certify to the test publisher ~~California~~
13 ~~Department of Education~~ that the school district has maintained the security and integrity of the
14 examination, collected all data and information as required to comply with Sections 1205, 1206, and 1207,
15 and returned all examinations and test materials, answer documents, and other materials included as part of
16 the ~~high school exit~~ examination in the manner and as otherwise required by the ~~publisher~~ Department.

17 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

18 **§ 1210. High School Exit Examination Test Site Coordinator Responsibilities.**

19 (a) Annually, the district coordinator or the superintendent of the ~~unified or high~~ school district shall
20 designate a high school exit examination test site coordinator for each test site, ~~including, but not~~
21 ~~limited to, each dependant charter school, each court school, and each school or program operated~~
22 ~~by a school district, and nonpublic school which serves grade 10 through grade 12 pupils of the~~
23 ~~district.~~ The designee shall be an employee of the school district, or the person assigned by a non public
24 school to implement a student's ~~Individualized Education Program (IEP)~~ from among the employees of
25 the school district.

26 ~~(b)~~ The ~~high school exit examination~~ test site coordinator, or the site principal **or his or her designee,**
27 shall be available to the ~~high school exit examination~~ district coordinator for the purpose of resolving
28 issues that arise as a result of the administration of the ~~high school exit~~ examination.

29 ~~(b)~~ ~~The high school exit examination test site coordinator's responsibilities shall include, but not be~~
30 ~~limited to, all of the following:~~

31 (c) The test site coordinator or the site principal shall oversee the administration of the examination to
32 eligible pupils or adult students at the test site in accordance with the manuals or other instructions
33 provided by the test publisher for administering the examination including, but not limited to, the
34 following responsibilities:

35 (1) Determining test site examination and test material needs.

- 1 (2) Arranging for test administration at the test site.
- 2 (3) Training the test administrator(s), ~~and~~ test proctors, and scribes as provided in the test publisher's
3 manual.
- 4 (4) Completing ~~the a~~ Test Security Agreement and Test Security Affidavit as set forth in Section
5 1211.5 prior to the receipt of examinations and test materials.
- 6 (5) Overseeing test security requirements, including collecting and ~~filling~~delivering all completed Test
7 Security Affidavit forms ~~from~~ to the school district office from the test administrators and other site
8 personnel involved with testing. All Test Security Affidavits shall be maintained for 12 months from the
9 date signed.
- 10 ~~(6)(7)~~ Overseeing the acquisition of examinations from the school district and the distribution of
11 examinations to the test administrator(s).
- 12 ~~(7)(6)~~ Maintaining security over the examination and test data as follows: required by Section 1211.
- 13 ~~(8)~~ Overseeing the administration of the high school exit examination to eligible pupils or adult
14 students at the test site.
- 15 (A) Delivering the examinations and test materials only to those persons who have executed the Test
16 Security Affidavit and who are administering the examination on the date of testing.
- 17 (B) Ensuring that strict supervision is maintained over each pupil or adult student who is being
18 administered the examination both while the pupil or adult student is in the room in which the
19 examination is being administered and during any period in which the pupil or adult student is, for any
20 purpose, granted a break during testing.
- 21 ~~(8)(11)~~ Overseeing the collection of all pupil ~~or adult student~~ data as required to comply with
22 Sections 1205, 1206, and 1207 of these regulations.
- 23 (9) Overseeing the collection and return of all testing materials to the ~~high school exit examination~~
24 district coordinator no later than the close of the school day on the school day following administration of
25 the ~~high school exit~~ examination.
- 26 (10) Assisting the ~~high school exit examination~~ district coordinator and the test publisher in the
27 resolution of any discrepancies between the number of examinations received from the ~~high school exit~~
28 ~~examination~~ district coordinator and the number of examinations collected for return to the ~~high school~~
29 ~~exit examination~~ district coordinator.
- 30 ~~(d)(12)~~ Within three (3) working days of completion of site testing, the site principal and or the high
31 ~~school exit examination~~ test site coordinator shall certify to the ~~high school exit examination~~ district
32 coordinator that the test site has maintained the security and integrity of the examination, collected all
33 data and information as required, and returned all examinations and test materials, answer documents, and
34 other materials included as part of the ~~high school exit~~ examination in the manner and as otherwise
35 required by the test publisher.

1 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851(e) , Education Code.

2 **§ 1211. High School Exit Examination Test Security.**

3 ~~(a) High school exit examination test site coordinators shall ensure that strict supervision is~~
4 ~~maintained over each pupil or adult student who is being administered the high school exit examination~~
5 ~~both while the pupil or adult student is in the room in which the test is being administered and during any~~
6 ~~period in which the pupil or adult student is, for any purpose, granted a break from testing.~~

7 ~~(a)(b)~~ Access to the high school exit examination materials is limited to pupils taking the examination
8 for the purpose of graduation from high school and adult students taking the examination for the purpose
9 of obtaining a high school diploma of graduation, and those who have signed the security affidavit or
10 agreements, including employees of a school district directly responsible for administration of the
11 examination, and persons assigned by a nonpublic school to implement students' IEPs.

12 (b) To maintain the security of the examination, all school district and test site coordinators are
13 responsible for inventory control and shall use appropriate inventory control forms to monitor and track
14 test inventory.

15 (c) The security of the examinations and test materials that have been delivered to the school district
16 is the sole responsibility of the school district until all examinations and test materials have been
17 inventoried, accounted for, and delivered to the common or private carrier designated by the test
18 publisher.

19 (d) Once materials have been delivered to the school district, secure transportation of the
20 examinations and test materials within a school district including to non-public schools (for students
21 placed through the IEP process), court and community schools, and home and hospital care, is the
22 responsibility of the school district.

23 (e) No examination may be administered in a private home or location except by a test administrator
24 as defined in Section 1200(h) who signs the Test Security Affidavit as set forth in Section 1211.5. No
25 examination shall be administered to a pupil by the parent or guardian of that pupil. This subdivision
26 does not prevent classroom aides from being a proctor and assisting in the administration of the
27 examination under the supervision of a ~~certificated school district employee~~ test administrator
28 provided that the classroom aide does not assist his or her own child and that the classroom aide signs the
29 Test Security Affidavit as set forth in Section 1211.5.

30 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60851 and 60850,
31 Education Code.

32
33 *Add Section 1211.5 (Title). Remove language from Section 1211 and place into Section 1211.5 to read:*

34 **§ 1211.5. High School Exit Examination Test Security Forms.**

35 ~~(a)(e)~~ All high school exit examination district and test site coordinators shall sign the California High

1 School Exit Examination Test Security Agreement set forth in subdivision (b).

2 ~~(b)(4)~~ The California High School Exit Examination Test Security Agreement shall be as follows:

3 CALIFORNIA HIGH SCHOOL EXIT EXAMINATION
4 TEST SECURITY AGREEMENT

5 (1) The coordinator will take all necessary precautions to safeguard all ~~tests~~ examinations and test
6 materials by limiting access to persons within the school district with a responsible, professional interest
7 in the ~~test's~~ examination's security.

8 (2) The coordinator will keep on file the names of persons having access to examinations and test
9 materials. All persons having access to the materials shall be required by the coordinator to sign the
10 California High School Exit Examination Test Security Affidavit that will be kept on file in the school
11 district office.

12 (3) The coordinator will keep the ~~tests~~ examinations and test materials in a secure, locked location,
13 limiting access to only those persons responsible for test security, except on actual testing dates as
14 provided in California Code of Regulations, Title 5, Division 1, Chapter 2, Subchapter 6.

15 By signing my name to this document, I am assuring that I ~~and anyone having access to the test~~
16 ~~materials~~ will abide by the above conditions.

17 **By Signed:** _____

18 **Print name:** _____

19 **Title:** _____

20 **School District/Affiliation:** _____

21 **Date:** _____

22 ~~(e) Each high school exit examination test site coordinator shall deliver the examinations and test~~
23 ~~materials only to those persons actually administering the high school exit examination on the date of~~
24 ~~testing and only upon execution of the California High School Exit Examination Test Security Affidavit~~
25 ~~set forth in subdivision (g).~~

26 ~~(c)(f)~~ All persons having access to the California High School Exit Examination, including but not
27 limited to the ~~high school exit examination~~ site principal, test site coordinator, test administrators, test
28 proctors, scribes, and persons assigned by a nonpublic school to implement students' IEPs shall
29 acknowledge the limited purpose of their access to the ~~test~~ examination by signing the California High
30 School Exit Examination Test Security Affidavit set forth in subdivision ~~(g)~~ (d).

31 ~~(d)(g)~~ The California High School Exit Examination Test Security Affidavit shall be as follows:

32 CALIFORNIA HIGH SCHOOL EXIT EXAMINATION
33 TEST SECURITY AFFIDAVIT

34 I acknowledge that I will have access to the ~~high school exit examination~~ and test materials for the
35 purpose of administering the ~~test~~ examination. I understand that these materials are highly secure, and it

1 is my professional responsibility to protect their security as follows:

2 (1) I will not divulge the contents of the ~~test~~ examination to any other person.

3 (2) I will not copy any part of the ~~test~~ examination or test materials.

4 (3) I will keep the ~~test~~ examination secure until the ~~test~~ examination is actually distributed to pupils or
5 adult students.

6 (4) I will limit access to the ~~test~~ examination and test materials by test examinees to the actual testing
7 periods.

8 (5) I will not permit pupils or adult students to remove examinations or test materials from the room
9 where testing takes place.

10 (6) I will not disclose, or allow to be disclosed, the contents of, or the scoring keys to, the ~~test~~
11 examination-instrument.

12 (7) I will return all examinations and test materials to the designated ~~high school exit examination~~ test
13 site coordinator upon completion of the ~~test~~ examination.

14 (8) I will not interfere with the independent work of any pupil or adult student taking the examination
15 and I will not compromise the security of the ~~test~~ examination by any means including, but not limited to:

16 (A) Providing eligible pupils or adult students with access to ~~test~~ examination questions prior to
17 testing.

18 (B) Copying, reproducing, transmitting, distributing or using in any manner inconsistent with test
19 security all or any ~~portion~~ section of any secure ~~high school exit~~ examinations or test materials ~~booklet or~~
20 ~~document~~.

21 (C) Coaching eligible pupils or adult students during testing or altering or interfering with the pupil's
22 or adult student's responses in any way.

23 (D) Making answer keys available to pupils or adult students.

24 (E) Failing to follow security rules for distribution and return of secure ~~tests~~ examinations and test
25 materials as directed, or failing to account for all secure examinations and test materials before, during,
26 and after testing.

27 (F) Failing to follow test administration directions specified in test administration manuals.

28 (G) Participating in, directing, aiding, counseling, assisting in, or encouraging any of the acts
29 prohibited in this section.

30 Signed: _____

31 Print Name: _____

32 Position: _____

33 School: _____

34 School District/Affiliation: _____

35 Date: _____

1 (h) ~~To maintain the security of the high school exit examination, all high school exit examination~~
2 ~~district and test site coordinators are responsible for inventory control and shall use appropriate inventory~~
3 ~~control forms to monitor and track test inventory.~~

4 (i) ~~The security of the test materials that have been duly delivered to the school district is the sole~~
5 ~~responsibility of the school district until all test materials have been inventoried, accounted for, and~~
6 ~~delivered to the common or private carrier designated by the publisher.~~

7 (j) ~~Once materials have been duly delivered to the school district, secure transportation of the test~~
8 ~~materials within a school district (including to non public schools, (for students placed through the IEP~~
9 ~~process), court and community schools, and home and hospital care) is the responsibility of the school~~
10 ~~district.~~

11 (k) ~~No test may be administered in a private home or location except by a test administrator as~~
12 ~~defined in section 1200 (g) who signs a security affidavit. No test shall be administered to a pupil by the~~
13 ~~parent or guardian of that pupil. This subdivision does not prevent classroom aides from assisting in the~~
14 ~~administration of the test under the supervision of a credentialed school district employee provided that~~
15 ~~the classroom aide does not assist his or her own child and that the classroom aide signs a security~~
16 ~~affidavit.~~

17 NOTE: Authority Cited: Section 33031, Education Code. Reference: Sections 60851 and 60850,
18 Education Code.

19
20 *Delete Section 1212.*

21 **~~§ 1212. Test Site Delivery.~~**

22 ~~School districts shall deliver the booklets for the high school exit examination to the school test site no~~
23 ~~more than two working days before the test is to be administered.~~

24 NOTE: Authority cited: 33031, Education Code. Reference: Section 60851, Education Code.

25
26 *Amend Section 1215 to read:*

27 **Article 3. High School Exit Examination Testing Variations/Accommodations/Modifications/Waivers**

28 **§ 1215. Timing/Scheduling Testing Variations Available to All Students.**

29 (a) School districts may provide All eligible pupils and adult students may have the following testing
30 variations: additional time to complete the examination, within the limits imposed by test security as
31 provided in Section 1211.

32 (1) extra time within a testing day.

33 (2) test directions that are simplified or clarified.

34 (b) All eligible pupils and adult students may have the following testing variations if regularly used in
35 the classroom:

- 1 (1) special or adaptive furniture.
- 2 (2) special lighting or acoustics.
- 3 (3) an individual carrel or study enclosure.
- 4 (4) test individually in a separate room provided that the pupil or adult student is directly supervised
5 by an employee of the school, **school** district, or nonpublic school, who has signed the Test Security
6 Affidavit.

7 (5) markers, masks, or other means to maintain visual attention to the examination or test items.

8 (c) If a school district proposes the use of a variation on the examination that is not listed in this
9 section, 1215.5, or 1216, the school district may submit a request for review of proposed variation in
10 administering the examination pursuant to Section 1218.

11 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

12

13 *Renumber Section 1217 to 1215.5 and amend to read:*

14 **§ 1217 1215.5. Accommodations and Modifications for Pupils or Adult Students with Disabilities.**

15 ~~(a) Where necessary to access the test, Eligible pupils or adult students with disabilities shall be~~
16 ~~permitted to take the high school exit examination with those accommodations listed in subsections (b)~~
17 ~~through (e), if specified in the eligible that are necessary and appropriate to address the pupil's or adult~~
18 ~~student's identified disability(ies) and that have been approved by their individualized education program~~
19 ~~teams or 504 plan teams, including but not limited to those accommodations that the pupil or adult~~
20 ~~student has regularly used during instruction and classroom assessments, provided that such~~
21 ~~accommodations do not fundamentally alter what the test measures. Approved accommodations for the~~
22 ~~high school exit examination must be reflected in the pupil's or adult student's individualized education~~
23 ~~program IEP or Section 504 plan for use on the examination, standardized testing, or for use during~~
24 ~~classroom instruction and assessments.~~

25 ~~(b) Presentation Accommodations that do not fundamentally alter what the test measures include;~~
26 ~~but may not be limited to:~~

27 ~~(1) Presentation accommodations: Large print versions;~~

28 ~~(2) test items enlarged through mechanical or electronic means (e.g., photocopier);~~

29 ~~(3) Braille transcriptions provided by the test publisher or a designee; markers, masks, or other~~
30 ~~means to maintain visual attention to the test or test items; reduced numbers of items per page;~~

31 ~~(4) use of **mManually eCoded English** or American **sSign IL** language to present directions for~~
32 ~~administration.~~

33 ~~(5) audio or oral presentation on of the mathematics portion section of the test examination, provided~~
34 ~~that an audio presentation is the pupil's or adult student's only means of accessing written material.~~

35 ~~(6) use of **mManually eCoded English** or American **sSign IL** language to present test questions on the~~

1 mathematics section of the examination.

2 ~~(2)~~(c) Response accommodations include:

3 ~~(A) Verbal, written, or signed responses; responses made with mechanical or electronic assistance as~~
4 ~~long as the mechanical or electronic device is used solely to record the pupil's or adult student's response.~~
5 ~~If a person is required to transcribe the pupil's or adult student's responses to the format required by the~~
6 ~~examination, the transcriber shall be an employee of the school district who has signed the Test Security~~
7 ~~Affidavit.~~

8 ~~(B) Assistive devices and technologies that are regularly used during testing provided that no~~
9 ~~technology or assistive device may be used that fundamentally alters what the test measures.~~

10 (1) responses marked in test booklet and transferred to the answer document by a school or **school**
11 district employee who has signed the Test Security Affidavit.

12 (2) responses dictated to a scribe for selected-response items (e.g., multiple-choice test questions).

13 (3) responses dictated to a scribe, audio recorder or speech to text converter on the writing portion of
14 the examination, and the pupil or adult student indicates all spelling and language conventions.

15 (4) use of word processing software with spell and grammar check tools turned off on the writing
16 portion of the examination.

17 (5) use of an assistive device that does not interfere with the independent work of the student on the
18 writing portion of the examination.

19 ~~(d)~~(3) Scheduling/timing accommodations include: ~~More frequent breaks during the regularly~~
20 ~~scheduled test session; multiple sessions, provided that a pupil or adult student does not have access to~~
21 ~~test items that will be presented in a future session or sessions.~~

22 (1) testing over more than one day in consultation with the test publisher.

23 (2) supervised breaks within a section of the examination.

24 (3) administration of the examination at the most beneficial time of day to the pupil or adult student in
25 consultation with the test publisher.

26 ~~(e)~~(4) Setting accommodations include **test administered by certificated teacher to a pupil or**
27 **adult student at home or in the hospital.** ~~Special or adaptive furniture; special lighting or acoustics; an~~
28 ~~individual carrel or study enclosure; a separate room provided that the pupil or adult student is directly~~
29 ~~supervised by school personnel who have signed the Test Security Affidavit.~~

30 **(1) test administered by certificated teacher to a pupil or adult student at home or in the**
31 **hospital.**

32 (f) The use of accommodations on the examination will not invalidate a pupil's or adult student's test
33 score or scores.

34 ~~(e) The following are modifications because they fundamentally alter what the test measures:~~

35 ~~(1) Calculators on the math portion of the test.~~

1 ~~(2) Audio or oral presentation of the English/language arts portion of the test.~~

2 ~~(d)(g) If the pupil's or adult student's IEP team individualized education program team or Section 504~~
3 ~~plan team proposes an variation for use on the examination that has not been listed in this section, 1215,~~
4 ~~or 1216, the school district may submit a request for review of the proposed variation in administering the~~
5 ~~examination accommodation for use on the high school exit examination that is not included subdivision~~
6 ~~(b), the school district may submit a request for accommodation pursuant to Section 1218.~~

7 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60850, Education Code.

8
9 *Amend Section 1216 to read:*

10 **§ 1216. Allowable Accommodations Modifications for Pupils or Adult Students with Disabilities, or**
11 **for English Learners.**

12 The purpose of the high school exit examination is to assure that pupils and adult students who
13 graduate from high school have demonstrated in English the skills, knowledge and abilities embodied in
14 the state standards in English/language arts and mathematics selected for the high school exit
15 examination. To assure that the high school exit examination is a valid measure of each pupil's or adult
16 student's skills, knowledge and abilities in relationship to these standards, accommodations will be
17 allowed that are necessary and appropriate to afford access to the test, consistent with federal law, so long
18 as the accommodations do not fundamentally alter what the examination is designed to measure.

19 (a) Eligible pupils or adult students with disabilities shall be permitted to take the examination with
20 the following modifications if specified in the eligible pupil's or adult student's IEP or Section 504 plan
21 for use on the examination, standardized testing, or for use during classroom instruction and assessments.

22 (b) The following are modifications as defined by Education Code section 60850 because they
23 fundamentally alter what the examination measures or affect the comparability of scores:

24 (1) calculators on the mathematics section of the examination.

25 (2) audio or oral presentation of the English/language arts section of the examination.

26 (3) use of mManually eCoded or American sSign HLanguage to present test questions on the
27 English/language arts section of the examination.

28 (4) spellcheckers, grammar checkers, or word processing software programs that check or correct
29 spelling and/or grammar on the writing portion of the examination.

30 (5) mechanical or electronic devices or other assistive devices that are not used solely to record the
31 pupil's responses, including but not limited to transcribers, scribes, voice recognition or voice to text
32 software, and that identify a potential error in the pupil's or adult student's response or that correct
33 spelling, grammar or conventions on the writing portion of the examination.

34 (6) use of American sSign HLanguage to provide a response to the written portion of the examination.

35 (7) English dictionary on the English/language arts section of the examination.

1 (8) mathematics dictionary on the mathematics section of the examination.

2 (c) A pupil or adult student who takes the examination with one or more modifications shall receive a
3 score marked not valid for the sections of the examination on which the modifications were used. If the
4 score is equivalent to a passing score, the pupil or adult student may be eligible for a waiver pursuant to
5 Education Code section 60851.

6 (d) If the pupil's or adult student's IEP or Section 504 plan proposes a variation for use on the
7 examination that has not been listed in this section, 1215, or 1215.5, the school district may submit a
8 request for review of proposed variations in administering the examination pursuant to Section 1218.

9 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60850~~(g)~~, Education Code.

10
11 *Renumber Section 1217.5 to 1217 and amend to read:*

12 **§ 1217.5 English Language Learners.**

13 ~~English learners must read and pass the high school exit examination in English. School districts must~~
14 ~~evaluate pupils to determine if they possess sufficient English language skills at the time of the~~
15 ~~examination to be assessed with the test. If the pupil does not possess sufficient English language skills to~~
16 ~~be assessed, the school district, in addition to the instruction in reading, writing, and comprehension in the~~
17 ~~English language specified in Education Code section 60852, may provide additional time as provided in~~
18 ~~Section 1215.~~

19 School districts **may shall** provide English learner pupils or adult English learner students the
20 following **additional** testing variations **if regularly used in the classroom for assessment:**

21 (1) Flexible setting. English learners may have the opportunity to be tested in a separate room with
22 other English learners provided that the pupil or adult student is directly supervised by an employee of the
23 school, district, or non-public school, who has signed the Test Security Affidavit and the pupil or adult
24 student has been provided such a flexible setting as part of their regular instruction or assessment.

25 (2) Flexible schedule. English learners may have additional supervised breaks within a testing day.

26 (3) Flexible time. English learners may have extra time on the examination within a testing day.

27 (4) Translated directions. English learners may have the opportunity to hear a translated version of
28 the test directions and the opportunity to ask clarifying questions about the test directions in their primary
29 language.

30 (5) Glossaries. English learners may have access to translation glossaries if used regularly in the
31 classroom (English to primary language or primary language to English).

32 NOTE: Authority cited: Sections **12001 and** 33031, Education Code. Reference: Sections 60850 and
33 60852, Education Code.

34
35 *Amend Section 1218 to read:*

1 **§ 1218. Requests for Accommodations Review Process for Proposed Variations in Administering**
2 **the Examination.**

3 (a) The school district may file a request for ~~accommodation~~ review of proposed examination
4 variations with the ~~California Department of Education~~ for a case-by-case determination of the use of
5 ~~accommodations~~ variations that are not ~~included~~ specified in Sections ~~1217(b)~~ 1215, 1215.5 or 1216.
6 Requests must be received by the ~~California Department of Education~~ at least ~~nine (9) weeks~~ 30 working
7 days in advance of the ~~pupil's or adult student's~~ proposed administration of the ~~high school exit~~
8 examination.

9 (b) The request for ~~accommodation~~ review of proposed variations in administering the examination
10 must include:

11 ~~(1) A description of the pupil's or adult student's disability(ies).~~

12 ~~(1)(2)~~ A description of the requested ~~accommodation~~ variation(s).

13 ~~(2)(3)~~ If applicable, a statement certification that the pupil's or adult student's ~~individualized~~
14 ~~education program IEP team or Section 504 plan team has determined~~ specifies that the requested
15 ~~accommodation variation~~ is appropriate and necessary to ~~address~~ access the examination due to the
16 pupil's or adult student's identified disability(ies) and that such variation is currently listed in the pupil's
17 or adult student's IEP or Section 504 plan.

18 ~~(4) An explanation of how the requested accommodation would allow the pupil or adult student to~~
19 ~~access the high school exit examination.~~

20 (c) ~~The California Department of Education shall make a determination of whether the requested~~
21 ~~accommodation would fundamentally alter what the test measures. The California Department's of~~
22 ~~Education's determination shall be the a final administrative decision for purposes of review under the~~
23 Administrative Procedure Act.

24 (d) ~~The California Department of Education shall issue its decision within 15 working days of receipt~~
25 ~~of the request for review of proposed variation on each request and shall inform the school district in~~
26 ~~writing at least six (6) weeks in advance of the pupil's or adult student's proposed administration of the~~
27 ~~high school exit examination.~~

28 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60850, Education Code.

29
30 *Delete Section 1218.5.*

31 **§ 1218.5. Use of Modifications.**

32 (a) ~~If the pupil's IEP or Section 504 Plan indicates that it is appropriate and necessary for a pupil to~~
33 ~~take the test with a modification(s) as defined in Education Code section 60850, or as specified in Section~~
34 ~~1217(e), or determined pursuant to Section 1218, the school district must then administer the test to the~~
35 ~~pupil with these modifications.~~

1 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60850 and 60851,
2 Education Code; and 34 CFR Section 300.138(a).

3
4 *Add Section 1218.6 to read:*

5 **§ 1218.6. Waiver Requests on Behalf of Pupils in a State Special School**

6 (a) For a pupil in a state special school who is eligible for a waiver, **at the parent or guardian's**
7 **request**, the state special school principal shall submit a waiver request to the local governing board of
8 the school district that placed the pupil in the state special school.

9 NOTE: Authority cited: Sections 33031 and 48200, Education Code. Reference: Sections 56101 and
10 60850 Education Code; and 34 CFR Section 300.138(a).

11
12 *Amend Section 1219 to read:*

13 **§ 1219. Independent Work of the Pupil or Adult Student.**

14 In ~~implementing~~ administering the examination, with accommodations or modifications pursuant to
15 Section ~~1216 or 1217~~ 1215.5 or 1216, school districts shall ensure that all ~~test~~ examination responses are
16 the independent work of the pupil or adult student. School districts, ~~and~~ school district personnel,
17 including scribes, and nonpublic school personnel are prohibited from assisting any pupil or adult student
18 in determining how the pupil or adult student will respond to each question, and are prohibited from
19 leading or directing the pupil or adult student to a particular response, and from correcting, prompting or
20 otherwise influencing a response.

21 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60850, Education Code.

22
23 *Delete Section 1219.5.*

24 **§ 1219.5. Invalidation of Test Scores.**

25 ~~If a school district allows a pupil or adult student to take the high school exit examination with one or~~
26 ~~more accommodations that are determined by the California Department of Education to fundamentally~~
27 ~~alter what the test measures, that pupil's or adult student's test score or scores will be invalidated.~~

28 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60850, Education Code.

29
30 *Amend Section 1220 to read:*

31 **Article 4. Cheating**

32 **§ 1220. Cheating.**

33 (a) Any pupil or adult student found by the school district or its agents to have cheated or assisted
34 others in cheating, or to have compromised the security of the ~~high school exit examination~~ shall have his
35 ~~or her test marked as "invalid" and the pupil or adult student~~ shall not receive a score from that test

1 administration.

2 (b) The school district shall notify each eligible pupil or adult student prior to each administration of
3 the ~~high school exit~~ examination of the provisions of subdivision (a).

4 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

5

6 *Amend Section 1225 to read:*

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Article 5. Apportionment

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§ 1225. Apportionment.

10 (a) For each test cycle, each school district shall report to the California Department of Education the
11 number of examinations administered.

12 (b) The superintendent of each school district shall certify the accuracy of all information submitted.
13 The report required by subdivision (a) shall be filed with the State Superintendent of Public Instruction
14 within ten (10) working days of completion of each test cycle in the school district.

15 (c) The amount of funding to be apportioned to the school district for the ~~high school exit~~ examination
16 shall be ~~equal to the product of~~ calculated by multiplying the amount per administration established by the
17 State Board of Education to enable school districts to meet the requirements of ~~subdivisions (a), (b) and~~
18 ~~(c)~~ of Education Code section 60851 by the number of times the number of tests administered to pupils
19 and adult students in the school district tested for one or both portions of the examination as determined
20 by the certification of the school district superintendent pursuant to subdivision (b).

21 (d) The apportionment shall be paid upon return of all secure test materials.

22 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

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SEPTEMBER 2003 AGENDA

SUBJECT	X	ACTION
California English Language Development Test (CELDT): Including, but not limited to, Update on CELDT Program	X	INFORMATION
		PUBLIC HEARING

Recommendation:

The State Board of Education (SBE) will take action if necessary.

Summary of Previous State Board of Education Discussion and Action

This is a placeholder item placed on the agenda in the event that an update or action is warranted. The item will be withdrawn from the SBE Agenda if there is no update to provide the SBE, nor SBE action needed.

Summary of Key Issue(s)

None.

Fiscal Analysis (as appropriate)

None.

Attachment(s)

None.



SEPTEMBER 2003 AGENDA

SUBJECT Immediate Interventional/Underperforming Schools Program (II/USP)- Consider definition of “significant growth” for certain schools failing to meet annual Academic Performance Index (API) growth targets (Education Code Section 52055.5).	X	ACTION
	X	INFORMATION
		PUBLIC HEARING

Recommendation: CDE staff recommends that the Board maintain the current definition of significant growth for Cohort I and Cohort II schools, with the recommended technical correction, and change the definition of significant growth for Cohort III schools. Staff recommends that the Board adopt the second proposed definition of significant growth under option two for Cohort III schools.

Summary of Previous State Board of Education Discussion and Action

At the February 2002 State Board meeting, the Board approved a definition of significant growth for II/USP schools.

Summary of Key Issue(s)

Current law (Education Code Section 52055.5) requires the State Board of Education to adopt a definition for “significant growth.” This definition is applied in a situation when an II/USP school fails to meet or exceed its API growth targets to determine if a school receives a third year of implementation funding or will be subject to state intervention/sanctions.

Following the discussion by the PSAA Advisory Committee, the State Board of Education (SBE) adopted a definition of significant growth in February 2002. Significant growth was defined as making positive growth on the schoolwide Academic Performance Index (API) in either of the two funded years of II/USP implementation.

Following release of the 2002 API growth data, 308 Cohort I schools made significant growth and received a third year of funding, 71 schools met their API growth targets for a second year in a row and exited the program and 24 schools failed to make significant growth for a second year in a row and entered the state-monitored schools sanctioning process. (Of the remaining 26 schools, 17 did not exit because they are also in the High Priority Schools Program and 9 schools had insufficient data and remain on “watch.”) The same definition of significant growth was used for Cohort II schools to notify them of the need to hold a public hearing as required by Education Code 52055. In 2002, 125 Cohort II schools made significant growth, 201 met their growth targets, 96 made no growth or negative growth, and 8 schools had insufficient data.

In November of 2003, some number of **Cohort I** schools will again be subject to significant growth requirements. A similar pattern of exit, “watch” and “enter sanctioning” will again occur, although only the sanctioned schools will receive any future funding under the II/USP

initiative.

Also in November 2003, some number of II/USP **Cohort II** schools will exit the program, be eligible for a third year of funding or become subject to state sanctions, based upon their academic performance.

In addition, by November 2003, **Cohort III** schools will have completed their first year of II/USP implementation and must be noticed that if they have not made significant growth, they will be required to hold a local public hearing.

In sum, the Board must affirm the current definition of significant growth or decide to change the definition for one or more cohorts. Two policy options are as follows:

Option one: Maintain the current definition of significant growth for Cohort II and III schools (making positive growth on the schoolwide API in either of the two years of funded implementation).

Adopting the same definition would:

- Ensure that all II/USP cohorts are treated equitably; and
- Avoid changing the rules in the middle of the program for Cohort II schools.

Option two: Maintain the same definition of significant growth for Cohort II schools, but change the Cohort III definition to move toward alignment with *No Child Left Behind* (NCLB) requirements.

The SBE could maintain the current definition of significant growth for II/USP Cohort II schools and adopt a more rigorous definition for II/USP Cohort III schools. Doing so would better align II/USP with NCLB and would demonstrate a good faith effort to align state and federal accountability requirements for underperforming schools. Currently, 86% of Cohort III schools are in Title I; hence, they are required to meet the NCLB requirements. In addition, 33% of Cohort III schools have been identified as in Program Improvement, with the probability of that number increasing substantially in 2003. Maintaining such a vast difference in the criteria for sanctioning under federal and state law is becoming more difficult to rationalize.

If option two is selected, there are two new definitions of significant growth that the Board could consider for Cohort III schools:

1. **“Making at least five points growth on the schoolwide Academic Performance Index (API) in either of the two funded implementation years and each year thereafter until the school exits the program.”**

This definition would align the significant growth criteria with the Governor’s Performance Awards Program criteria. Currently, the awards program requires schools to meet or exceed their 5% growth target, or have an API increase of 5 points, whichever is greater to be eligible for rewards. Requiring underperforming schools to make at least 5 points growth on the schoolwide API would be consistent with the Governor’s Performance Awards Program. (See Table I, attached, for a comparison of outcomes using the current and alternative definition of significant growth.)

2. **“Meeting either the schoolwide API growth target or making positive growth on the schoolwide API and meeting all applicable comparable improvement API growth targets in either of the two funded implementation years and each year thereafter until the school exits the program.”**

This definition uses API as the metric, not Annual Yearly Progress (AYP), and would not be as difficult to attain as AYP. However, this definition begins the process of aligning II/USP with NCLB and raises the bar substantially higher than the current significant growth definition. Unfortunately, the new definition will move Cohort III schools into state sanction more quickly than under the current definition. (See Table II, attached, for a comparison of outcomes using the current definition and this alternative definition of significant growth.)

Regardless of which option the Board chooses, a technical revision to the current definition of significant growth should be made. Currently II/USP schools that do not exit the program (those making significant growth) remain “under watch” until they make their growth targets and exit the program or until they are deemed state-monitored. Education Code Section 52055.5 (h) requires that any year between the third year of funding and the time a school exits the program the school does not make significant growth, the school is to be deemed state-monitored. Therefore, a yearly assessment on the status of schools “under watch” is required. In order for the current definition of significant growth to be in aligned with the legislation, the following technical revision to the significant growth definition is recommended: “making positive growth on the schoolwide Academic Performance Index (API) in either of the two funded implementation years *and each year thereafter until the school exits the program.*”

Staff recommends that a new significant growth definition be adopted for Cohort III schools. With the requirement in NCLB that each state maintain a single accountability system for all schools, changing the definition of significant growth would be a good interim step toward that goal. More importantly, with 86% of Cohort III schools already in Title I, reducing the gap between the state and federal sanctions requirements becomes even more critical. Therefore, staff recommend that the second proposed definition be adopted—meeting either the schoolwide API growth target or making positive growth on the schoolwide API and meeting all applicable comparable improvement API growth targets in either of the two funded implementation years and each year thereafter until the school exits the program.

Staff also recommend that the Board adopt the technical revision for the current definition of significant growth.

Fiscal Analysis (as appropriate)

With a new definition of significant growth, more schools will potentially be identified for state sanctions, thereby increasing the costs to the state for interventions/sanctions.

Attachment(s)

Attachment 1: [Table I - Comparison of current definition with the 5 points growth definition](#)

Attachment 2: [Table II - Comparison of current definition with meeting schoolwide API growth target definition](#)

Table I
Comparison of
Current Significant Growth Definition—Positive growth in either year
Vs
New proposed definition of significant growth—At least 5 points growth in either year

	# of Schs meeting all growth targets	# of Schs Meeting Current Definition	Total	# of Schs meeting all growth targets	# of Schs meeting New Proposed Definition	Total
Cohort I (Two years of implementation data—2001 and 2002 API)	82	296	378	82	281	363
Cohort II (One year of implementation data—2002 API)	201	124	325	201	93	294
*Cohort II (Two years of data—one planning year and one implementation, 2001 and 2002 API)	136	271	407	136	260	396
Cohort III (One year of planning data—2002 API)	201	116	317	201	90	291

Please note: Chart does not reflect how many schools did not have valid data or how many schools had zero or negative growth both years.

*The planning and implementation years of API data were used in an effort to better represent how many schools would not make the new definition of significant growth. The number of schools that meet the definition of significant growth increases substantially when it is applied over a two-year period.

<p align="center">Table II Comparison of Current Significant Growth Definition—Positive growth in either year Vs New proposed definition of significant growth—Meeting schoolwide API growth target or making positive growth on schoolwide and applicable comparable improvement API growth targets</p>						
	# of Schs meeting all growth targets	# of Schs Meeting Current Definition	Total	# of Schs meeting all growth targets	# of Schs meeting New Proposed Definition	Total
Cohort I (Two years of implementation data—2001 and 2002 API)	82	296	378	82	244	326
Cohort II (One year of implementation data—2002 API)	201	124	325	201	66	267
*Cohort II (Two years of data—one planning year and one implementation, 2001 and 2002 API)	136	271	417	136	228	364
Cohort III (One year of planning data—2002 API)	201	116	317	201	68	269

Please note: Chart does not reflect how many schools did not have valid data or how many schools had zero or negative growth both years.

*The planning and implementation years of API data were used in an effort to better represent how many schools would not make the new definition of significant growth. The number of schools that meet the definition of significant growth increases substantially when it is applied over a two-year period.



SEPTEMBER 2003 AGENDA

SUBJECT	X	ACTION
Territory Transfer Appeal: From San Lorenzo Valley Unified School District in Santa Cruz County to Los Gatos-Saratoga Joint Union High School District and Lakeside Joint School District in Santa Clara County		INFORMATION
		PUBLIC HEARING

Recommendation:

Based solely on the administrative record: (1) reverse the decision of the Santa Clara County Committee on School District Organization (SDO) and support the decision of the Santa Cruz County on SDO; (2) approve the territory transfer appeal; and (3) establish the area of election as that of the petition area by adopting the proposed resolution. (Attachment 2)

Summary of Previous State Board of Education Discussion and Action

The State Board of Education (SBE) has not heard this issue previously.

Summary of Key Issue(s)

This is an appeal by the chief petitioners (hereinafter appellants) under *Education Code* Section 35710.5 of the Santa Clara Committee on SDO’s action to deny a petition to transfer a single parcel of land at 19707 Bear Creek Road in Santa Cruz County. The petition proposes the transfer of territory from the San Lorenzo Valley Unified School District (USD) in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District (JUHSD) and the Lakeside Joint School District (JSD) in Santa Clara County. The San Lorenzo Valley USD and the Los Gatos-Saratoga JUHSD oppose the proposed transfer, while the Lakeside JSD supports the transfer.

The Santa Cruz County Committee on SDO concluded that the petition substantially complied with the nine criteria of *Education Code* Section 35753(a) and unanimously approved the transfer of territory. However, the Santa Clara County Committee on SDO denied the transfer of territory, concluding that this petition substantially complied with the nine criteria of *Education Code* Section 35753(a) with the exception of *Education Code* Section 35753(a)(2), which states, “The districts are each organized on the basis of a substantial community identity.”

The chief petitioners are appealing the Santa Clara County Committee on SDO’s action, stating that they have met all nine criteria of *Education Code* Section 35753(a). They allege that the Santa Clara County Committee on SDO has denied due process through rubber-stamping its denial, as it does with all petitions.

California Department of Education (CDE) staff concurs with Santa Cruz County Committee on SDO’s and the appellants’ conclusion that all provisions of *Education Code* Section 35753(a) have been substantially met. Staff finds no evidence in the administrative record to support the

Summary of Key Issue(s)

Santa Clara County Committee on SDO's finding that Criterion 2 of *Education Code* Section 35753 is not substantially met. Staff findings are consistent with the findings of the Santa Clara COE and the Santa Cruz COE feasibility reports; both county offices also found all nine criteria of Section 35753(a) were met. Staff also finds validity to the claim that the appellants see themselves more a part of the Lakeside JSD and Los Gatos-Saratoga JUHSD than the San Lorenzo Valley USD on the basis of shared community centers, workplace, and social situations, and the fact that appellants' two children have attended Lakeside JSD on inter-district transfers since kindergarten.

CDE staff disagrees with the Santa Clara County Committee on SDO's action to deny the petition. Accordingly, staff recommends the SBE, following a review based solely on the administrative record, reverse the action of the Santa Clara County Committee on SDO by granting the appeal and approving the transfer of territory.

Fiscal Analysis (as appropriate)

There are no significant state level fiscal effects to be considered.

Attachments

- Attachment 1: Report of Required Conditions for Reorganization (Pages 1-8)
- Attachment 2: Proposed Resolution (Page 1-1)
- Attachment 3: Feasibility Report of the Proposed Transfer of Territory Prepared by the Santa Clara Office of Education (Pages 1-15) (This attachment is not available on the web.)
- Attachment 4: "Appeal of Decision of County Committee on School District Organization of July 30, 2002 – Bear Creek Transfer" (Pages 1-4) (This attachment is not available on the web.)
- Attachment 5: Map of the Proposed Transfer Area (Page 1-1) (This attachment is not available on the web.)
- Attachment 6: Alternative Resolution (Page 1-1)

**TERRITORY TRANSFER APPEAL
SAN LORENZO VALLEY UNIFIED SCHOOL DISTRICT TO
LOS GATOS-SARATOGA JOINT UNION HIGH AND
LAKESIDE JOINT SCHOOL DISTRICTS**

REPORT OF REQUIRED CONDITIONS FOR REORGANIZATION

1.0 RECOMMENDATION

California Department of Education (CDE) staff recommends that the State Board of Education (SBE) reverse the action of the Santa Clara County Committee on School District Organization (SDO) and support the action of the Santa Cruz County Committee on SDO by granting the appeal and adopting the proposed resolution in Attachment 2.

2.0 BACKGROUND

The chief petitioners (hereinafter appellants) have appealed the Santa Clara County Committee on SDO's disapproval of a petition to transfer the property at 19707 Bear Creek Road in Santa Cruz County from the San Lorenzo Valley Unified School District (USD) in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District (JUHSD) and the Lakeside Joint School District (JSD) in Santa Clara County. The area proposed for transfer is one parcel; the total acreage is estimated to be 4.5 acres. There are two school-aged children that reside at the above address and have attended the Lakeside JSD on inter-district transfers since kindergarten.

The Santa Cruz County Committee on SDO concluded that this petition substantially complies with *Education Code* Section 35753(a) and unanimously approved the transfer of territory. However, the Santa Clara County Committee on SDO unanimously denied the transfer of territory after finding that the petition did not substantially meet the community identity criterion of *Education Code* Section 35753(a).

3.0 POSITIONS OF AFFECTED SCHOOL DISTRICTS

The district in which the property is currently located, the San Lorenzo Valley USD, and one of the two districts that would have received the property, the Los Gatos-Saratoga JUHSD, both oppose the proposed transfer. However, the governing board of the Lakeside JSD, where the appellants' two children currently attend school, unanimously consented to the transfer.

4.0 REASONS FOR THE APPEAL

Section 35710.5 limits appeals of the county committee decisions on territory transfers to issues of noncompliance with the provisions of sections 35705, 35706, 35709, 35710, and

by references in sections 35709 and 35710 to the nine criteria prescribed in Section 35753(a) for the proposals to reorganize school districts.

The appellants have requested the transfer for the following reasons:

1. Property is located directly on the boundary line between the two school districts.
2. Children have attended Lakeside JSD since kindergarten. All of the children they go to school with will continue on to Los Gatos schools for middle and high school (Fisher Middle School and Los Gatos High School, respectively).
3. Appellants identify with Lakeside JSD and the general Los Gatos area. Work, business, and other activities are oriented in the direction of Los Gatos and Santa Clara County.
4. Appellants state that it would be a great hardship to transport the children to Redwood Elementary School (9 miles from the house in the opposite direction of daily travel), and San Lorenzo Valley Junior High and High Schools in Felton (both over 11 miles from the house and in the opposite direction of daily travel, all of which is a single lane and heavily traveled route each day on Highway 9 from Boulder Creek to Felton). Travel to Lakeside Elementary, Fisher Middle School, and Los Gatos High School is less travel time and miles. The appellants' house is the last in Boulder Creek before the Los Gatos border.
5. There is no public transportation near the property for transporting the children to the San Lorenzo Valley schools. There are bus stops near the house for service to Lakeside School and several neighbors whose children go to Lakeside School, Fisher Middle School, and Los Gatos High School for carpooling.
6. When the house was purchased, the multiple listing stated that it was part of the Lakeside/Los Gatos school district. But, when enrolling the first child into kindergarten, appellants discovered that the home lies outside the boundary of that school district.

The appeal alleges that the Santa Clara County Committee on SDO was not objective in judging the petition. Although staff of the Santa Clara County Office of Education (COE) found that all nine criteria of *Education Code* Section 35753 were met, the Santa Clara County Committee on SDO found that Criterion 2 (community identity) was not met and denied the petition. The appeal asserts that Criterion 2 has been met and alleges that the Santa Clara County Committee on SDO has denied due process through rubber-stamping its denial, as it does with all petitions, rather than objectively evaluating each case on its merits.

5.0 SECTION 35753 CRITERIA

The SBE may approve a proposal for the reorganization of districts if the SBE has determined that the proposal substantially meets the nine criteria in Section 35753(a). Those criteria are further clarified by Section 18573, Title 5, *California Code of Regulations*.

In evaluating the appellants' arguments, CDE staff reviewed the full administrative record as provided by the Santa Clara COE, and other miscellaneous documents provided by the Santa Cruz COE. Using the conditions set forth in Section 35753 and Title 5, staff found

all nine criteria of Section 35753(a) were substantially met. Staff findings are consistent with the findings of the Santa Clara COE and the Santa Cruz COE feasibility reports; both county offices also found all nine criteria of Section 35753(a) were met. Based on its findings, staff agrees with the Santa Cruz County Committee on SDO's decision to approve the transfer of territory. Staff disagrees with the Santa Clara County Committee on SDO's determination that Criterion 2 of Section 35753(a) was not met and its subsequent action to deny the petition. Staff's analysis of Criterion 2 follows:

Criterion 2: The districts are each organized on the basis of a substantial community identity.

Standard of Review

The following criteria from Section 18573(a)(2), Title 5, California Code of Regulations, should be considered to determine whether a new district is organized on the basis of substantial community identity: isolation; geography; distance between social centers; distance between school centers; topography; weather; community, school and social ties; and other circumstances peculiar to the area.

County Committee Evaluation/Vote

The Santa Clara COE feasibility report indicates that there is validity to the claim that residents of the area proposed for transfer see themselves more a part of the Lakeside JSD and the Los Gatos-Saratoga JUHSD than the San Lorenzo Valley USD. On the basis of shared community centers, workplace, social situations, and the fact that the appellants' two children attend the Lakeside JSD on inter-district transfers, the Santa Clara COE report indicates that the appellants' interests are oriented in the direction of Los Gatos and Santa Clara County. Because of this community identity and the finding that there are no demonstrated issues of geographic isolation or unreasonable distances to the social centers or school centers, the Santa Clara COE concludes that Criterion 2 is met.

However, contrary to the Santa Clara COE's conclusion, the Santa Clara County Committee on SDO concludes that Criterion 2 is not substantially met. Specifically, one member of the committee disagrees with Santa Clara COE report, and believes that the area proposed for transfer is closer to Boulder Creek in Santa Cruz County, rather than Los Gatos in Santa Clara County. The Santa Clara COE feasibility report indicates that the area proposed for transfer is located approximately halfway between downtown Boulder Creek and downtown Los Gatos. For students of all grade levels, the travel times and distances to schools in either the San Lorenzo Valley USD or Los Gatos-Saratoga JUHS and Lakeside JSD are approximately the same.

The committee member also believes that the area proposed for transfer is not contiguous to the school district boundary lines and therefore, not eligible for the territory transfer. The Santa Cruz County Office of Education has validated the petition through the County Assessor's Office and determined that the property is on the boundary line.

The Santa Clara County Committee on SDO voted unanimously (8-0) that this criterion is not substantially met.

Appellants' Statement

The appellants claim that the Santa Clara County Committee on SDO resorts to “rubber-stamping” the denial of all petitions submitted rather than objectively evaluating each case on its merits. The appellants further claim that this appears to be a trend, since the Santa Clara County Committee on SDO has not approved a territory transfer from Santa Cruz County since March 1996. At that time, the county committee approved the transfer of twenty-three parcels located adjacent to the area proposed for transfer. The residents of the twenty-three parcels claimed that, since the homes in this area had been built, the school children of the families residing there had attended school in the Lakeside JSD and the Los Gatos-Saratoga JUHSD. These residents believed that they had always been a part of the Lakeside JSD and the Los Gatos-Saratoga JUHSD, noting that a resident of this area served as a member of the Board of Education for the Lakeside JSD.

Staff Findings/Conclusion

The Santa Clara County Committee on SDO found that the petition did not substantially meet Criterion 2 of *Education Code* Section 35753, even after both the Santa Clara COE and Santa Cruz COE feasibility reports, and the Santa Cruz County Committee on SDO found this criterion substantially met. Staff finds no evidence in the administrative record to support the Santa Clara County Committee on SDO’s finding and concludes that Criterion 2 of *Education Code* Section 35753 is substantially met for the following reasons:

- (a) Strong community identity exists between the petition area and Santa Clara County. Staff finds that there is validity to the claim that the appellants see themselves more a part of the Los Gatos-Saratoga JUHSD and the Lakeside JSD, than the San Lorenzo Valley USD. The appellants’ work, business, and other activities are oriented in the direction of the Santa Clara County.

- (b) Historically, the issue of “community identity” has been a common concern for Santa Cruz County residents along the Santa Clara County school districts’ boundary lines. Many residents perceive themselves as part of the Santa Clara community. Because of the strong ties to the Santa Clara County schools, workplaces, and communities, many petitions requesting transfers of territory between the Santa Cruz County school districts and the Santa Clara County school districts have been filed. Staff found that prior to 1998, the county committees from both Santa Clara County and Santa Cruz County supported these transfers. Since 1998, the Santa Clara County Committee on SDO has consistently denied transfers into the Los Gatos-Saratoga JUSD. Many of these denials subsequently resulted in appeals that have been brought forward to the SBE. CDE staff has determined the appellants’

reasons for the transfers to be compelling and supported their community identity claims in all appeals.

- (c) The appellants' parcel is adjacent to the twenty-three parcels that both the Santa Clara County Committee on SDO and the Santa Cruz County Committee on SDO approved for transfer in March 1996. The appellants' reasons for the transfer of territory are identical to the reasons given by the homeowners involved in the 1996 territory transfer.

In approving the transfer of the twenty-three parcels, both the Santa Clara County Committee on SDO and the Santa Cruz County Committee on SDO found that the area proposed for transfer has strong historical and current ties with the Santa Clara County schools, work places, and communities, and concluded that this sense of community identity by the residents is not present for schools or communities in Santa Cruz County. Prior to the approval, one resident from the transfer area served as a member of the Board of Education for the Lakeside JSD. In addition, real estate multiple listings inaccurately identified properties in this community as being part of the Santa Clara County school districts.

- (d) The appellants' children currently attend the Lakeside JSD on inter-district transfers. The appellants indicated that they have volunteered many hours to the Lakeside JSD and would like to continue their support of the public school system. Their desire to have their children continue on to the Los Gatos middle and high schools with the same children they have attended school with since kindergarten has merit.

6.0 AREA OF ELECTION

6.1 Area of Election Legal Principles

The Local Agency Formation Commission (LAFCO)¹ court decision provides the most current legal interpretations to be followed in deciding the area of school district reorganization elections. This decision upheld a limited area of election on a proposal to create a new city, citing the "rational basis test." The rational basis test may be used to determine whether the area of election should be less than the total area of the district affected by the proposed reorganization unless there is a declared public interest underlying the determination that has a real and appreciable impact upon the equality, fairness, and integrity of the electoral process, or racial issues. If so, a broader area of election is necessary.

Attachment 1

¹BOARD OF SUPERVISORS OF SACRAMENTO COUNTY, ET AL., v. LOCAL AGENCY FORMATION COMMISSION (3 CAL. 4TH 903, 1992)

In applying the rational basis test, a determination must be made as to whether:

- (a) There is a genuine difference in the relevant interests of the groups, in which case an enhancement of the minority voting strength is permissible.
- (b) The reduced voting area has a fair relationship to a legitimate public purpose. The fair relationship to a legitimate public purpose is found in *Government Code* Section 56001, which expresses the legislative intent "to encourage orderly growth and development," such as promoting orderly school district reorganization statewide that allows for planned, orderly community-based school systems that adequately address transportation, curriculum, faculty, and administration. This concept includes both:
 - (1) Avoiding the risk that residents of the area to be transferred, annexed, or unified might be unable to obtain the benefits of the proposed reorganization if it is unattractive to the residents of the remaining district; and
 - (2) Avoiding islands of unwanted, remote, or poorly served school communities within large districts.

However, even under the rational basis test, a determination to reduce the area of election would, according to LAFCO, be held invalid if the determination constituted an invidious discrimination in violation of the constitutional Equal Protection Clause (e.g., involving a racial impact of some degree).

6.2 Recommended Area of Election

The residents of 19707 Bear Creek Road wish to transfer to the Los Gatos-Saratoga JUHSD and the Lakeside JSD, while the remaining voters in the Santa Cruz district would likely be indifferent to the proposal. The transfer will not negatively impact the quality of education provided to children attending the San Lorenzo Valley USD, since the two students affected by the transfer already attend the Lakeside JSD. Finally, the petition does not promote segregation or discrimination. Thus, exclusion of the San Lorenzo Valley USD from the vote meets the LAFCO court decision's rational basis test.

Based on the Department's analysis, the impact of the petitions on the receiving districts would be insignificant since the public school students in the area already attend the Lakeside JSD. Thus, it is our opinion that voters in the Los Gatos-Saratoga JUHSD and the Lakeside JSD would also be relatively unaffected by the proposal, and exclusion of the districts from the vote would meet the LAFCO court decision's rational basis test.

Therefore, if the SBE reverses the action of the Santa Clara County Committee on SDO and approves the transfer, staff recommends the SBE establish the territory proposed for transfer as the area of election

7.0 STATE BOARD OF EDUCATION OPTIONS

Sections 35710.5(c) and 35753 outline the SBE's options:

- (a) The SBE may summarily deny review of the appeal (thus ratifying the county committee's decision) *or*
- (b) Review the appeal for noncompliance by the county committee with the provisions of the specified *Education Code* sections, either on the administrative record or in conjunction with a public hearing. If the SBE elects to review the appeal, the Board, following the review, will:
 - (1) affirm or reverse the action of the county committee, and
 - (2) if the petition will be sent to election, determine the area of election. As previously discussed, staff recommends the SBE establish the territory proposed for transfer as the area of election if the SBE should choose to approve the petition.

The SBE may approve the proposal if it determines all the criteria in Section 35753(a) have been substantially met. The SBE may approve the proposal pursuant to Section 35753(b) if it determines that it is not practical or possible to apply the criteria literally, and that the circumstances with respect to the proposal provide an exceptional situation sufficient to justify approval of the proposal. However, Section 35753 is permissive, providing minimum standards, and does not preclude the SBE from rejecting proposals for other concerns.

8.0 RECOMMENDED ACTION

Staff recommends that the SBE review the appeal solely on the administrative record and reverse the action of the Santa Clara County Committee on SDO by adopting the proposed resolution provided as Attachment 2 for the following reasons:

- (a) Consistent with the findings of the Santa Clara COE and the Santa Cruz COE feasibility reports, staff determined that all nine criteria listed in *Education Code* Section 35753(a) are met.
- (b) The Santa Clara County Committee on SDO denied the transfer of territory after finding that the petition did not substantially meet Criterion 2 of *Education Code* Section 35753(a). Staff finds no evidence in the administrative record to support the Santa Clara County Committee on SDO's finding that Criterion 2 of *Education Code* Section 35753 is not substantially met, and agrees with the Santa Cruz County Committee on SDO's determination that Criterion 2 is substantially met.
- (c) Staff finds validity to the claim that the appellants see themselves more a part of the Lakeside JSD and Los Gatos-Saratoga JUHSD, than the San Lorenzo Valley USD on the basis of shared community centers, workplace, and social situations,

and has determined that school districts would be organized on the basis of a substantial community identity if the petition were approved.

- (d) Historically, community identity has been an issue for Santa Cruz County residents residing along the Santa Clara school district's boundary lines. Prior to 1998, the county committees from both Santa Clara County and Santa Cruz County have recognized this concern and supported transfers of territory bordering these school districts. Since 1998, the Santa Clara County Committee on SDO has consistently denied such transfers into the Los Gatos-Saratoga JUSD. CDE staff has always supported the Santa Cruz County residents' community identity claims that have been brought forward to the SBE through the appeals process.
- (e) The appellants' reasons for the transfer of territory are identical to the reasons given by the residents of the adjacent twenty-three parcels that both Santa Clara County Committee on SDO and Santa Cruz County Committee on SDO approved for transfer in March 1996.
 - (e) The appellants' children currently attend the Lakeside JSD on inter-district transfers. Their desire to have their children to continue on to the Los Gatos middle and high schools with the same children they have attended school with since kindergarten has merit.

If the SBE affirms the Santa Clara County Committee on SDO's decision, that county's action denying the transfer stands. However, if the SBE reverses the action of the county committee and approves the transfer of territory, staff recommends that the SBE limit the area of election to the territory proposed for transfer. An alternative proposed resolution that affirms the Santa Clara County Committee on SDO's action and sets the area of election is provided as Attachment 6.

PROPOSED RESOLUTION

(Approval of Appeal)

Appeal by the Chief Petitioners regarding the Santa Clara County Committee on School District Organization's Disapproval of a Transfer of Territory from the San Lorenzo Valley Unified School District in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District and the Lakeside Joint School District in Santa Clara County

RESOLVED, that under the authority of *Education Code* Section 35710.5, the appeal, filed on or about August 13, 2002, by chief petitioners from an action of the Santa Clara County Committee on School District Organization disapproving a transfer of territory from the San Lorenzo Valley Unified School District in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District and the Lakeside Joint School District in Santa Clara County is hereby granted; and be it

RESOLVED further, that the Santa Clara County Superintendent of Schools and the Santa Clara County Committee on School District Organization be informed that, under Section 35710.5 of the *Education Code*, the County Committee's action to deny such petition is reversed by the State Board of Education; and be it

RESOLVED further, that the State Board of Education has determined the area of election to be that of the petition area; and be it

RESOLVED further, that the Santa Cruz County Superintendent of Schools call an election on the transfer of territory within the boundaries of the petition area, to be conducted at the next regular election, and be it

RESOLVED further, that the Secretary of the State Board of Education notify, on behalf of said Board, the Santa Clara County Committee on School District Organization, the Santa Cruz County Committee on School District Organization, the chief petitioners, and the affected school districts of the action taken by the State Board of Education.

September 2003

ALTERNATIVE RESOLUTION
(Denial of Appeal)

Appeal by the Chief Petitioners regarding the Santa Clara County Committee on School District Organization's Disapproval of a Transfer of Territory from the San Lorenzo Valley Unified School District in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District and the Lakeside Joint School District in Santa Clara County

RESOLVED, that under the authority of *Education Code* Section 35710.5, the appeal, filed on or about August 13, 2002, by chief petitioners from an action of the Santa Clara County Committee on School District Organization disapproving a transfer of territory from the San Lorenzo Valley Unified School District in Santa Cruz County to the Los Gatos-Saratoga Joint Union High School District and the Lakeside Joint School District in Santa Clara County is hereby denied; and be it

RESOLVED further, that the Secretary of the State Board of Education notify, on behalf of said Board, the Santa Clara County Committee on School District Organization, the Santa Cruz County Committee on School District Organization, the chief petitioners, and the affected school districts of the action taken by the State Board of Education.



SEPTEMBER 2003 AGENDA

SUBJECT: Administering Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication During the Regular School Day – Adopt Proposed Title 5 Regulations.	<input checked="" type="checkbox"/> ACTION
	<input type="checkbox"/> INFORMATION
	<input type="checkbox"/> PUBLIC HEARING

RECOMMENDATION:

Adopt the proposed permanent regulations regarding Administering Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication During the Regular School Day. Direct that CDE staff complete the rulemaking package, in accordance with the Administrative Procedure Act, including, but not limited to, responding to public comments and making a clarifying notation in the Final Statement of Reasons regarding the actual contribution of the “Medications Committee” (as described in the Informative Digest) in the development of these regulations.

Summary of Previous State Board of Education Discussion and Action.

In November 2002, the State Board initiated a rulemaking process on the topic of medication administration to pupils in the public schools. A public hearing on the proposed regulations was held in February 2003. Subsequently, draft amendments were developed, but were so substantial in nature that the State Board was advised in April 2003 to terminate that rulemaking effort and begin again.

In May 2003, this rulemaking process was initiated. The proposed regulations were circulated for public comments in accordance with the Administrative Procedure Act for at least 45 days. A public hearing (conducted by staff at the direction of the State Board) was held on August 7, 2003. An audiotape of the public hearing was made available to the members of the State Board.

CDE staff reviewed in detail the public comments received and recommend that the State Board adopt the regulations as proposed (i.e., without amendment).

Summary of Key Issue(s).

Education Code Section 49423.6 requires the CDE to develop and the State Board to adopt regulations regarding the administration of medication to pupils in the public school (as provided for in Education Code Section 49423). These proposed regulations provide guidance on who administers medications and under what conditions medications are administered. As the underlying statute is permissive, these regulations are similarly so.

The Informative Digest as presented in the rulemaking package provides extensive detail regarding the work of the “Medications Committee,” an advisory group created consistent with the specifications of Education Code Section 49423.6. The existence and effort of the advisory group merits mention in this rulemaking package, but the group’s contribution to this set of regulations is not appropriately described in the Informative Digest. A correction needs to be included in the Final Statement of Reasons.

Fiscal Analysis (as appropriate).

These regulations by their own terms do not establish a mandate and therefore have no cost implications for the state.

Background Information attached to this Agenda Item.

Attachment 1: [Notice of Proposed Rulemaking, dated June 20, 2003 \(4 pages\)](#)

Attachment 2: [Text of Proposed Regulations \(6 pages\)](#)

Attachment 3: [Initial Statement of Reasons \(5 pages\)](#)

Attachment 4: [Summary of Written Comments Received and *Draft Responses to Written Comments* \(8 pages\)](#)

Attachment 5: [Report on Public Hearing Conducted by Staff \(2 pages\)](#)

CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street; P.O. Box 944272
Sacramento, CA 95814-5901



TITLE 5. EDUCATION

CALIFORNIA STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Administering Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication During the Regular School Day

[Notice published June 20, 2003]

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

The State Board will hold a public hearing beginning at **9:00 a.m. on Thursday, August 7, 2003**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on Tuesday, August 5, 2003**. The Board will consider only written comments received by the Regulations Adoption Coordinator (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
Telephone : (916) 319-0641
E-mail: medregs@cde.ca.gov

AUTHORITY AND REFERENCE

Authority: Sections 33031 and 49423.6, Education Code.

Reference: Sections 33308.5, 44877, 49414, 49423 and Part 30 (commencing with Section 56000), Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Department of Education (CDE) has received and responded to concerns and issues from school administrators, parents and guardians, physicians, school nurses, and community agencies regarding medication administration in schools. Education Code section 49423 provides statutory authority for provision of medication administration and assistance with medication administration in California schools. The language of Education Code section 49423 has been interpreted as permissive and instances of requests to administer medication (or to render assistance with medication administration) being denied have been reported. Further, the Education Code currently does not provide statutes for implementation.

In April 1995, a representative group of parents and community agencies presented their concerns regarding the health and safety of students to the Commission on Special Education (Commission) due to the denial of medication administration and health care services in the schools as prescribed by physicians, lack of training for school staff designated to provide these services, and lack of supervision of school staff providing these services. In response to these concerns, the Commission requested that CDE issue an advisory to local education agencies regarding medication administration in school. CDE issued an advisory in September 1997.

From March 1998 to August 2000, CDE continued to receive many calls from school districts, parents and guardians, physicians, and school nurses with concerns and questions regarding medication administration in school. CDE developed a Q&A page on its web site to address these questions (<http://www.cde.ca.gov/spbranch/sed/healthup/meds1.htm>).

Senate Bill 1549 was signed by the Governor on August 31, 2000. This bill added Section 49423.6 to the Education Code and required regulations be developed, regarding the administration of medication in the public schools. The bill required that the regulations be developed in consultation with parents, representatives of the medical and nursing professions, and others jointly designated by the Superintendent of Public Instruction, the Advisory Commission on Special Education, and the Department of Health Services.

The Medications Committee (Committee), as the consultative group came to be known, was convened to begin developing regulations. The Committee used current standards of health care practice, and input from parents and guardians, physicians, school nurses, school administration staff, and community agencies to develop these regulations.

The Committee also considered information received from phone calls received by CDE from school districts seeking guidance on various problems and constraints related to medication administration services. Rural school districts, state border school districts, districts with few school nurses, and districts without school nurses face unique challenges in administering medications. In addition some districts raised issues related to the challenge of administering medications using different methods and with new technologies never before encountered in the school environment. The need for direction in the provision of over-the-counter medication administration in schools was also brought to the attention of the Committee, and has surfaced through proposed legislation. There is no specific statutory authority, however, upon which to base regulations for the administration of non-prescribed over-the-counter medications, and therefore these proposed regulations do not cover non-prescribed over-the-counter medications.

These various issues that needed addressing required the Committee to conduct extensive research and review more standards of healthcare practice for accommodating these needs in schools, and resulted in a request for

an extension of time for completion of regulations for consideration by the State Board of Education. The regulations were further delayed in order to address fiscal issues, and specific issues raised to the State Board.

These proposed regulations for the Administering Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication During the Regular School Day provides clarification for implementing

Education Code section 49423. Specifically, these regulations help clarify who may administer medications to pupils requiring medication (or assist pupils with medication administration) during the regular school day, under what conditions such administration of medications (or assistance with administration of medications) may occur, and related issues, such as delivery, administration documentation, and disposal of medications.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

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

Cost 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 State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (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.

Significant effect on housing costs: None.

Affect on small businesses: There will have no affect on small businesses because they only provide clarity for schools on a permissive statute related to medication administration and assistance with medication administration during the regular school day.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board 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 substance of the proposed regulations should be directed to:

Linda Davis-Aldritt, Consultant
California Department of Education
School Health Connections
1430 N Street, Suite 6408
Sacramento, CA 95814
E-mail: medregs@cde.ca.gov
Telephone: (916) 319-0284

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Adoption Coordinator, or to the backup contact person, Natalie Vice, at (916) 319-0642.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/regulations>.

Title 5. EDUCATION

Division 1. State Department of Education

Chapter 2. Pupils

Subchapter 3. Health and Safety of Pupils

Add Article 4.1. to read:

Article 4.1. Administering Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication During the Regular School Day.

§ 600. Authorization.

Pursuant to Section 49423 and subdivision (b) of Section 49423.6 of the Education Code, any pupil who is required to take, during the regular school day, prescribed medication may be assisted by a school nurse or other designated school personnel if both of the following conditions are met:

(a) The pupil's authorized health care provider executes a written statement specifying, at a minimum, the medication the pupil is to take, the dosage, and the period of time during which the medication is to be taken, as well as otherwise detailing (as may be necessary) the method, amount, and time schedule by which the medication is to be taken.

(b) The pupil's parent or legal guardian provides a written statement initiating a request to have the medication administered to the pupil or to have the pupil otherwise assisted in the administration of the medication, in accordance with the authorized health care provider's written statement.

NOTE: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

§ 601. Definitions.

As used in Section 49423 and subdivision (b) of Section 49423.6 of the Education Code and in this article:

(a) "Regular school day" may include not only the time the pupil receives instruction, but also the time during which the pupil otherwise participates in activities under the auspices of the local education agency, such as field trips, extracurricular and cocurricular activities, before- or after-school programs, and camps or other activities that typically involve at least one overnight stay away from home.

(b) "Medication" may include not only a substance dispensed in the United States by prescription, but also a substance that does not require a prescription, such as over-the-counter remedies, nutritional supplements, and herbal remedies.

(c) "School nurse" means an individual employed by the local education agency who is a currently licensed registered nurse and is credentialed pursuant to Education Code section 44877.

(d) "Other designated school personnel" may include any individual employed by the local education agency who:

1 (1) Has consented to administer the medication to the pupil or otherwise assist the pupil in the
2 administration of medication; and

3 (2) May legally administer the medication to the pupil or otherwise assist the pupil in the
4 administration of the medication.

5 (e) “Authorized health care provider” means an individual who is licensed by the State of California
6 to prescribe medication.

7 (f) “Parent or legal guardian” means the individual recognized by the local education agency as
8 having authority to make medical decisions for the pupil.

9 (g) “Medication record” may include:

10 (1) The authorized health care provider’s written statement;

11 (2) The written statement of the parent or legal guardian;

12 (3) The medication log; and

13 (4) Any other written documentation related to the administration of the medication to the pupil or
14 otherwise assisting the pupil in the administration of the medication.

15 (h) “Medication log” may consist of a form developed by the local education agency for the
16 documentation of the administration of the medication to the pupil or otherwise assisting the pupil in the
17 administration of the medication. The medication log may include the following:

18 (1) Pupil’s name;

19 (2) Name of medication the pupil is required to take;

20 (3) Dose of medication;

21 (4) Method by which the pupil is required to take the medication;

22 (5) Time the medication is to be taken during the regular school day;

23 (6) Date(s) on which the pupil is required to take the medication;

24 (7) Authorized health care provider’s name and contact information; and

25 (8) A space for daily recording of medication administration to the pupil or otherwise assisting the
26 pupil in administration of the medication, such as date, time, amount, and signature of the individual
27 administering the medication or otherwise assisting in administration of the medication.

28 NOTE: Authority cited: Section 49423.6, Education Code. Reference: Sections 44877 and 49423,
29 Education Code.

30 **§ 602. Written Statement of Authorized Health Care Provider.**

31 (a) A local education agency may establish specifications for the authorized health care provider’s
32 written statement in order to ensure that:

33 (1) The pupil is clearly identified;

34 (2) The medication is clearly identified;

35 (3) The dosage is clearly specified;

1 (4) The period of time during which the medication is to be taken is clearly specified.

2 (5) Other information is obtained that is relevant to administering the medication to the pupil or
3 otherwise assisting the pupil in administration of the medication.

4 (b) A pupil's parent or legal guardian may deliver the authorized health care provider's written
5 statement to an authorized representative of the local education agency, such as the schoolsite
6 administrator or his or her designee.

7 (c) A local education agency may require that an amended or new written statement be provided
8 annually and whenever there is a change in the pupil's authorized health care provider, or a change in the
9 medication, dosage, method by which the medication is required to be taken, or date(s) or time(s) the
10 medication is required to be taken.

11 NOTE: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

12 **§ 603. Written Statement of the Parent or Legal Guardian.**

13 (a) A local education agency may establish specifications for the written statement of the pupil's
14 parent or legal guardian in order to ensure that:

15 (1) The pupil is clearly identified;

16 (2) Permission is obtained for an authorized representative of the local education agency to
17 communicate directly with the pupil's authorized health care provider, as may be necessary, regarding the
18 authorized health care provider's written statement.

19 (3) The parent or legal guardian understands what employees of the local education agency will do to
20 administer the medication to the pupil or otherwise assist the pupil in the administration of the
21 medication.

22 (4) The parent or legal guardian understands his or her responsibilities to enable employees of the
23 local education agency to administer the medication to the pupil or otherwise assist the pupil in
24 administration of the medication, e.g., to ensure that a current authorized health care provider's written
25 statement has been delivered to an authorized representative of the local education agency, or to ensure
26 that the medication is delivered to the schoolsite in a proper container by an individual legally authorized
27 to be in possession of the medication.

28 (5) The parent or legal guardian understands how he or she may terminate consent for administration
29 of the medication to the pupil or otherwise assisting the pupil in the administration of the medication.

30 (b) A local education agency may provide reasonable accommodations to a parent or legal guardian
31 who has insufficient English language proficiency to produce a written statement without assistance or
32 who has a disability that makes it difficult to produce a written statement.

33 NOTE: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

34 **§ 604. Administration of Medication to Pupils or Otherwise Assisting Pupils in the Administration**
35 **of Medication.**

1 (a) A school nurse may administer medication to a pupil or otherwise assist a pupil in the
2 administration of medication as allowed by law and in keeping with applicable standards of professional
3 practice.

4 (b) Other designated school personnel may administer medication to pupils or otherwise assist pupils
5 in the administration of medication as allowed by law and, if they are licensed health care professionals,
6 in keeping with applicable standards of professional practice for their license.

7 (c) The pupil's parent or legal guardian may administer medication to the pupil or otherwise assist the
8 pupil in the administration of medication as allowed by law.

9 (d) An individual designated to do so by the parent or legal guardian may administer medication to
10 the pupil or otherwise assist the pupil in the administration of medication as allowed by law. A local
11 education agency may establish rules governing the designation of an individual by a parent or legal
12 guardian in order to ensure that:

13 (1) The individual is clearly identified;

14 (2) The individual is willing to accept the designation;

15 (3) The individual being designated is permitted to be present on the school site;

16 (4) Any limitations on the individual's authority in his or her capacity as designee are clearly
17 established; and

18 (5) The individual's service as a designee would not be inconsistent or in conflict with his or her
19 employment responsibilities, if the individual being designated is employed by the local education
20 agency.

21 NOTE: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

22 **§605. Self-Administration of Medication.**

23 With the approval of the pupil's authorized health care provider and the approval of the pupil's parent
24 or legal guardian, a local education agency may allow a pupil to carry medication and to self-administer
25 the medication. A local education agency may establish rules governing self-administration in order to
26 protect the health and safety both of the pupil and of the whole student body and staff at the schoolsite.
27 Through such rules, a local education agency may describe circumstances under which self-
28 administration may be prohibited.

29 NOTE: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

30 **§ 606. Delivery and Storage of Medication.**

31 A local education agency may establish policies governing the delivery of medication to the
32 schoolsites (other than medication a pupil is allowed to carry for purposes of self-administration), as well
33 as the storage of medication in a manner that is secure and maintains the medication's effectiveness.

34 NOTE: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

35 **§ 607. Documentation.**

1 A local education agency may establish policies regarding documentation of the administration of
2 medication to pupils or otherwise assisting pupils in the administration of medication to ensure that:

3 (a) Pupil confidentiality is appropriately maintained;

4 (b) A medication record is maintained for each pupil to whom medication is administered or other
5 assistance is provided in the administration of medication; and

6 (c) An appropriate record is kept of pupils who are allowed to carry and self-administer medication.

7 NOTE: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

8 **§ 608. Deviation from Authorized Health Care Provider's Written Statement.**

9 A local education agency may establish policies regarding any material or significant deviation from
10 the authorized health care provider's written statement in order to ensure that, as quickly as possible upon
11 discovery, appropriate notification of the deviation is made:

12 (a) In accordance with applicable standards of professional practice, if the discovery is made by a
13 licensed health care professional; or

14 (b) To the schoolsite administrator, the pupil's parent or legal guardian, an employee of the local
15 education agency who is a licensed health care professional (if any), and the pupil's authorized health
16 care provider, if the discovery is made by an individual who is not a licensed health care professional.

17 NOTE: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

18 **§ 609. Unused, Discontinued and Outdated Medication.**

19 A local education agency may establish policies regarding unused, discontinued, and outdated
20 medication in order to ensure that:

21 (a) Such medication is returned to the pupil's parent or legal guardian where possible;

22 (b) Such medication that cannot be returned to the pupil's parent or legal guardian is disposed of by
23 the end of the school year in accordance with applicable law.

24 NOTE: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

25 **§ 610. Applicability of this Article.**

26 Nothing in this article may be interpreted as creating a state-mandated local program or as affecting in
27 any way:

28 (a) The statutes, regulations, or standards of practice governing any health care professional licensed
29 by the State of California in the carrying out of activities authorized by the license;

30 (b) The statutes or regulations governing the administration of medication to pupils or otherwise
31 assisting pupils in the administration of medication by individuals who are not licensed health care
32 professionals, other than Section 49423 and subdivision (b) of Section 49423.6 of the Education Code;

33 (c) The use of emergency epinephrine auto-injectors pursuant to Section 49414 of the Education
34 Code;

1 (d) The content or implementation of a pupil’s individualized education program prepared in
2 accordance with applicable provisions of federal and state law, or a pupil’s Section 504 Accommodation
3 Plan prepared in accordance with applicable provisions of the federal Rehabilitation Act of 1973.

4 NOTE: Authority cited: Section 49423.6, Education Code. Reference: Sections 49414, 49423, and Part
5 30 (commencing with 56000), Education Code.

6 **§ 611. Issuance and Periodic Updating of Advisory.**

7 The California Department of Education, with the approval of the State Board of Education, may
8 issue and periodically update an advisory providing non-binding guidance on the administration of
9 medication to pupils and otherwise assisting pupils in the administration of medication.

10 NOTE: Authority cited: 49423.6, Education Code. Reference: 33308.5, Education Code.

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5/07/03

INITIAL STATEMENT OF REASONS

SECTIONS 600 – 611.

SPECIFIC PURPOSE OF THE REGULATION

The proposed regulations will provide clarification for implementing Education Code section 49423. Specifically, the regulations clarify who may administer medications to pupils requiring medication during the regular school day, under what conditions such administration of medications may occur, and the requirements for the delivery, administration documentation, and disposal of medications.

NECESSITY/RATIONALE

Education Code section 49423.6 specifically requires the State Board of Education to adopt regulations regarding the administration of medication in the public schools pursuant to Education Code section 49423. Currently confusion exists regarding the of application of Education Code section 49423, and local education agencies, parents/guardians, and pupils are seeking and would benefit from clarification of the requirements related to the administration of medications to pupils during the regular school day.

Section 600. Authorization.

Education Code section 49423.6, Subdivisions (a), (b), and (c) states that medication must be prescribed by a physician. Current law allows medication to be prescribed by authorized health care providers (Business and Professions Code, sections 2746.51, 2836.1, 4040, 4174).

Note: Authority cited: Section 49423.6 Education Code. Reference: Section 49423, Education Code.

Section 601. Definitions.

Subsection (e) – Education Code section 49423.6, subdivision (b) states that medication must be prescribed by a physician or other authorized medical personnel. California law authorizes medication to be prescribed by authorized health care providers including: physicians, osteopaths, dentists, podiatrists, and optometrists who have an active, current, California license; nurse practitioners and nurse midwives who have been assigned furnishing numbers, possess an active, current, California license, and function under standardized procedures as defined by Business and Professions Code section 2725; and physician assistants who have been assigned furnishing numbers, possess an active, current, California license, and function under a physician's supervision and written protocols.

Note: Authority cited: Section 49423.6 Education Code. Reference: Section 49423, Education Code.

Section 602. Written Statement of Authorized Health Care Provider.

Subsection (a)(1) - The clear identification of the pupil identifies for whom the medication is authorized.

Subsection (a)(2) - The clear identification of the medication identifies what needs to be administered. The name of the medication is needed for identification and the reason for administration provides information for expected outcomes.

Subsection (a)(3) - The amount or dose of medication prescribed is required for correct administration of the authorized medication.

Subsection (a)(4) – The period of time during which the medication is to be taken is required for the correct administration of the authorized medication and is required by Section 49423.

Subsection (a)(5) – Other information may be necessary to provide information for expected outcomes, possible adverse reactions to the medication, the need for medical intervention, and to ensure the health and safety of the pupil.

Subsection (b) - Authorized health care providers are prohibited from releasing medical information without written consent. A school district cannot communicate with a pupil's authorized health care provider without written consent from the parent/guardian. Therefore, it is necessary for the parent to be responsible for obtaining and providing the school with the authorized health care provider's written statement regarding administration of medication at school. Medication administration must be provided in compliance with Section 49423; therefore, an authorized health care provider's written statement must be provided before medication can be administered in school.

Subsection (c) - The standard of practice is to renew medication authorizations on a periodic basis and whenever a change in the medication is required. The established time frame of annually and if there are changes in the order, are consistent with this standard. This also ensures safety for correct medications, dosages, time of administration, and method of administration.

Note: Authority cited: Section 40423.6, Education Code. Reference: Section 49423, Education Code, and Sections 2746.51, 2836.1, 4040, and 4174, Business and Professions Code.

Section 603. Written Statement of the Parent or Legal Guardian.

Subsection (a)(1) - A written statement of consent from the parent/guardian for medication administration in school is in compliance with Section 49423. All services provided to pupils in school must have parent/guardian consent.

Subsection (a)(2) - In order to ensure that the medication is administered in a safe and effective manner, it may be necessary to communicate with the authorized health care provider/pharmacist regarding the written statement.

Subsection (a)(3) – Parents have the right to know what employees of the local education agency will do to assist their children with medication administration.

Subsection (a)(4) – Parents need to know what they must do to enable employees of the local education agency to administer medication or otherwise assist their children in the administration of medication.

Subsection (a)(5) - Just as the parents and guardians have the right to consent to administration of medication to their children in school, they also have the right to rescind the request at any time.

Subsection (b) – Some parents may need assistance in the development of the written statement consenting to the administration of medication or assistance in the administration of medication to their children.

Note: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

Section 604. Administration of Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication.

Subsection (a) - The school nurse, in keeping with applicable standards of professional practice, may administer medication or assist pupils in the administration of medication in school pursuant to Education Code section 49423.

Subsection (b) – Other designated school personnel, including other licensed health care professionals, in keeping with applicable standards of professional practice, may administer medication or assist pupils in the administration of medication to the extent they are allowed by law.

Subsection (c) – Parents and legal guardians have legal authority for their children and may administer medications to their children during the regular school day.

Subsection (d) – Parents and legal guardians are responsible for the care provided to their children; therefore, they or one of their designees may administer medications to their children during the regular school day as allowed by law. The local education agency has the right to establish rules governing who may be designated by the parent or legal guardian to ensure the health and safety of all pupils.

Subsection (d)(3) – The parents or legal guardians or anyone they designate cannot be a person who for legal reasons cannot come on a school campus or accompany pupils on a field trip: for example, an individual found guilty of being a sex offender.

Note: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

Section 605. Self-Administration of Medication.

Many students with chronic illnesses have the need to carry life-sustaining medications on their person at all times. A collaborative and shared responsibility for authorization for this accommodation in school provides parameters for safety in schools. The local education agency may establish rules governing self-administration. Such rules may include ways to address situations arising from the abuse of this privilege.

Note: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

Section 606. Delivery and Storage of Medication.

This section allows local education agencies to consider the relevant issues and ensure that medications are delivered to school and stored in a manner that maintains the medication's effectiveness and is safe for all school staff and pupils. Such policies would not necessarily include medication that is to be self-administered.

Note: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

Section 607. Documentation.

Documentation of medication administration validates provision.

Subsections (a)(b) - An individual pupil log for medication administration documentation ensures privacy and provides accountability in the appropriate administration of medications.

Subsection (c) – This provides for the health and safety of pupils who self-administer medication.

Note: Authority cited: Section 49423.6, Education Code, Reference: Section 49423, Education Code.

Section 608. Deviation from Authorized Health Care Provider's Written Statement.

Failure to administer medication according to the written statement from the authorized licensed health care provider can be detrimental to a pupil's health. Administration of the wrong medication to a pupil can be life threatening. Notifying the site administrator, applicable local education agency employed licensed health care professional (if any) and the authorized health care provider as indicated insures prompt response. Notification of the parent of this information is providing the parent their right.

Note: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

Section 609. Unused, Discontinued and Outdated Medication.

This section allows local education agencies to consider the issues and ensure that medications are disposed of in a manner that is safe for all school personnel and pupils.

Subsections (a) - Medications are paid for and belong to the parent/guardian of the student. The medication, at the end of the school year, or medication that has been discontinued, should be returned to the parent or legal guardian.

Subsection (b) - Provides a system for safe and appropriate disposal of medications if such medication cannot be returned to the pupil's parent or legal guardian at the end of the school year.

Note: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

Section 610. Applicability of this Article.

This section clarifies that it does not create a state-mandated local program nor does it affect in any way the statutes, regulations or standards of practice governing any California licensed health care professional and the statutes and regulations governing unlicensed individuals in regard to medication administration or the provision of assistance to pupils with medication administration. This section further clarifies that it does not affect statute in regard to the use of epinephrine auto-injectors nor does it affect the content or implementation of properly prepared individualized education program plans or Section 504 Accommodation Plans.

NOTE: Authority cited: Section 49423.6, Education Code. Reference: Sections 49414, 49423, and Part 30 (commencing with 56000), Education Code.

Section 611. Issuance and Periodic Updating of Advisory.

This section allows the California Department of Education, with the approval of the State Board of Education, to develop, issue and update non-binding advisory information on the medication administration.

NOTE: Authority cited: Section 33031, Education Code Reference: Section 33308.5, Education Code.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The State Board did not rely upon any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the State Board.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The State Board has not identified any alternatives that would lessen any adverse impact on small business.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

The proposed regulations would not have a significant adverse economic impact on any business.

Pupil Medication Regulations¹
Summary of Written Comments Received and
*Draft Responses to Written Comments*²

As of August 5, 2003, 5:00 P.M., fifteen written comments regarding the proposed pupil medication regulations were received by the California Department of Education in accordance with the Administrative Procedure Act. Among the comments received:

- Three made general statements to the effect that some of the language in the proposed regulations is unclear.

Response: The language of the proposed regulations provides as much clarity as possible within the framework of the underlying statute.

- Two expressed concerns with Section 611 of the proposed regulations and recommended that this section be deleted.

Response: Education Code Section 49423.6 requires the State Board of Education to adopt regulations "regarding the administration of medication in the public schools pursuant to [Education Code] Section 49423." The State Board believes that an advisory (as provided for in Section 611) would be necessary or beneficial to carrying out its responsibilities under Education Code Section 49423.6. Therefore, it is perfectly reasonable to include this provision in the regulations. Moreover, the State Board retains approval authority over the advisory to ensure (among other things) that the advisory is consistent with applicable statutes and regulations and promotes clarity in relation to the regulations.

- Two suggested replacing "may" with "shall" in several sections.

Response: The underlying statute to which the regulations are primarily addressed (Education Code Section 49423) is discretionary (permissive) with respect to school districts. Therefore, there is no authority to establish regulations that mandate responsibilities on school districts.

The other substantive comments are summarized below, by section number.

600. Authorization.

The writer wants to know who is included in the definition of "authorized health care provider," and wonders if the regulations supersede a physician's orders.

Response: The definition of "authorized health care provider" (included in Section 601) clearly states that such an individual is one licensed by the State of California to prescribe medication. Licensing to prescribe medication is authority outside the purview of the State Board of

¹ Formally titled "Administering Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication During the Regular School Day."

² Subject to modification prior to the submission of the Final Statement of Reasons to the Office of Administrative Law.

Education. Thus, this definition is the only practical way the State Board of Education has of describing such an individual.

The proposed regulations cannot (and do not) supersede a physician's orders. The statute itself makes clear that medication administration (or the providing of assistance with medication administration) is to be done within the context of a written statement by a physician or other authorized medical personnel.

601. Definitions.

The writer wants to know what “may legally administer the medication . . .” means.

Response: The referenced language is clear in stating that in order to administer medication (or assist with medication administration), an individual must be legally capable of so doing. The State Board of Education has no authority to determine the legality of a given individual administering medication (or rendering assistance in the administration of medication). Moreover, the State Board understands that statutes (other than the Education Code) and state agencies (other than itself) do have authority in regard to determining the legality of an individual administering medication (or assisting with the medication administration). The referenced language clearly reflects those facts. The State Board is unable through regulation to empower an individual in regard to medication administration (or assisting with medication administration) in ways that are contrary to statute or to the authority of other state agencies. Furthermore, in a practical sense, the State Board cannot list in these regulations all of those categories of individuals who may administer medication (or assist with the administration of medication). Even if accurate at the time of approval, such a list would become inaccurate or incomplete in short order.

The writer wants to know who determines the definition of “regular school day” and how LEAs will cover all of the activities included in the definition as proposed.

Response: The statute itself uses the phrase “regular school day.” LEAs may view the phrase differently. The proposed regulations merely make clear that the “regular school day” may include activities that are outside of traditional instructional time (e.g., before- or after-school programs). An LEA choosing to provide medication administration (or assistance with medication administration) to a given pupil outside of traditional instructional time would “cover” this time in the same way that the LEA would “cover” traditional instructional time, i.e., with an individual who is a licensed health care professional or with a volunteer who is legally authorized to administer medication (or assist with medication administration).

The writer suggests replacing “may” with “shall” in the description of what information belongs in the medication log.

Response: The suggested change would create a mandate upon those LEAs choosing to maintain a medication log. In so doing, the suggestion would create a higher level of service for which no source of reimbursement funding is available.

602. Written Statement of Authorized Health Care Provider.

The writer suggests that the method for medication administration be added to the health care provider's written statement.

Response: This addition is not necessary. If the medication is prescribed, then the label affixed by the pharmacist will state the method of administration. If the medication is an over-the-counter remedy, then the container will indicate the method of administration. If, in any given case, there is something unusual or not plainly evident about the method of administration, then the authorized health care provider will include that as “other information” in the written statement.

The writer suggests that the regulations be amended to state that prior to the first administration of medication or when there has been a medication change order, the physician’s written statement may be reviewed by a Duly Qualified Supervisor of Health, who will determine who is the most appropriate provider of the medication and what level of supervision is required.

Response: Nothing in the proposed regulations prohibits an LEA from adopting a procedure for the review of authorized health care providers’ written statements by a Duly Qualified Supervisor of Health. Therefore, the additional authorization suggested in this comment is unnecessary. Requiring such review would constitute a mandate for a higher level of service for which no source of reimbursement is available.

603. Written Statement of the Parent or Legal Guardian.

The writer suggests that “proper container” be replaced with “original container” or “container provided by the pharmacist.”

Response: “Proper container” as used in the proposed regulations is the appropriate reference. “Container provided by the pharmacist” would not apply to all types of medication that may be administered (or for which pupils may receive assistance with administration). “Original container” could be interpreted as taking away important discretion to refuse to administer medication in the “original container” if, for example, that container has been damaged in such a way as to compromise the contents. In such a circumstance, the medication, while in the “original container,” would not be in a “proper container.”

The writer suggests that the wording of line 16 be changed to “Permission is obtained for the credentialed school nurse, site administrator, or an authorized representative of the local education agency to communicate directly with the pupil’s authorized health care provider...”

Response: The proposed additions of “credentialed school nurse” and “site administrator” are unnecessary, as these individuals would be examples of authorized representatives of the LEA (and all authorized representatives are already included). Moreover, the proposed additions use somewhat different references to these individuals than the references used elsewhere in the regulations.

The writer suggests replacing “reasonable accommodations” on line 30 with “linguistically and culturally appropriate assistance.”

Response: “Reasonable accommodations” is the appropriate reference in this context. It subsumes and goes beyond the narrower reference suggested. “Linguistically and culturally appropriate assistance,” for example, might be interpreted as excluding assistance in the form of transcribing an oral statement made by a disabled individual who is unable to hold a writing

instrument or manipulate a keyboard. Such a disabled individual would not necessarily be challenged by a linguistic or cultural barrier, only a physiological barrier.

604. Administration of Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication.

The writer expresses serious concern about office staff administering insulin injections and the legal aspect of “offering advice without a medical degree.”

Response: This comment is effectively beyond the scope of the proposed regulations. These regulations speak only to individuals (whether or not professionally licensed) administering medication or rendering assistance with medication administration “as allowed by law.” If the commenter is concerned that too many individuals are allowed by law to administer insulin, he or she needs to take up that matter with authorities other than the State Board of Education. These regulations speak only to the prospect of non-professionally-licensed school staff administering any medication (regardless of the means) “as allowed by law.” Moreover, nothing in the regulations condones or promotes offering medical advice without a medical degree.

The writer believes that the issue of training personnel needs to be discussed. The writer believes the regulations should have a separate section discussing medication that can only be administered by a nurse, such as insulin.

Response: Creation of a section of the regulations limiting to certain individuals the authority to administer (or render assistance with) certain medications is unnecessary, would be ill-advised, and would likely go beyond the scope of the statutory authority. The regulations already speak to all individuals (whether or not professionally licensed) administering (or rendering assistance with) medication doing so only “as allowed by law.” Creating a point-in-time list of authorized or excluded individuals in relation to specific medications is, therefore, unnecessary, and it would be ill-advised because the list would likely be out-of-date very quickly. Moreover, unless the list was precisely in line with other legal authority, its existence could create a mandate for a higher level of service for which no reimbursement funding is available.

The writer believes the intent of section 604(b) is unclear.

Response: Section 604(b) is clear. Because the statute itself separately lists “school nurse” as a category of individuals who may administer medication (or render assistance with medication administration), they are covered in subdivision (a) of Section 604. Subdivision (b) of that section, therefore, covers “other designated school personnel,” the other category listed in statute, and that phrase (“other designated school personnel”) is specifically defined in Section 601(d).

The writer wants to know what “as allowed by law” means, what are the “applicable standards of professional practice,” and who determines what standards apply.

Response: “As allowed by law” is the only reasonable means the State Board of Education has of taking into account the existence of statutes (outside of the Education Code) and the authority of other state agencies that regulate medication administration (and the rendering of assistance with medication administration). It is simply impractical to create in regulation lists detailing

every circumstance under which medication administration is lawful and unlawful at a schoolsite. "Applicable standards of professional practice" is a phrase used in the proposed regulations only in relation to specifically licensed health care professionals. Such individuals (in their capacities as licensees of the state) will understand the meaning of the phrase and will know what they are permitted and not permitted to do. Standards of professional practice are generally established by the various state licensing boards for health care professions (e.g., Board of Dental Examiners, Medical Board of California, Board of Optometry, and Board of Registered Nursing).

The writer wants to know what "may legally administer" means and does not think that the role of designated personnel is clearly addressed.

Response: "May legally administer" (like "as allowed by law") is the only reasonable means the State Board of Education has of taking into account the existence of statutes (outside of the Education Code) and the authority of other state agencies that regulate medication administration (and the rendering of assistance with medication administration). It is simply impractical to create in regulation lists detailing every circumstance under which medication administration is lawful and unlawful at a schoolsite. The "role" of designated personnel (which presumably means personnel other than school nurses) is clear: They may administer medication to pupils (or assist pupils with the administration of medication) "as allowed by law," presuming the personnel have volunteered (consented) to do so.

605. Self-Administration of Medication.

The writer suggests that the school nurse and student's teacher should be involved in discussions about whether to have the student self-administer medication since the school nurse and teacher may have a better understanding of how the student behaves around his or her peers.

Response: Nothing in the proposed regulations precludes an LEA from establishing policies or rules under which the school nurse and/or a pupil's teacher(s) are involved in discussions regarding self-administered medication (presuming no complicating issue is involved, e.g., doctor-patient confidentiality). Therefore, authorization for such involvement need not be included in these regulations. Requiring such involvement would constitute a mandate for a higher level of service for which no source of reimbursement funding exists and, therefore, could not be included in these regulations.

The writer believes that this section provides no guidance, and suggests several questions that should be addressed in this section including procedures and intervals for reviewing the medication log, identifying who is responsible for the log, who has authority to make notations, how will pupil confidentiality be maintained, how is the child who is to receive medication identified, how are errors or misses documented, what are the procedures for handling controlled substances, what is the procedure for school trips.

Response: To the extent the comments suggest the inclusion or exclusion of specific individuals in regard to specific tasks, the changes in the regulations would constitute a mandate for a higher level of service for which no source of reimbursement exists. To the extent the comments suggest non-binding guidance for this specific area (self-administration), the State Board has provided for issuance and periodic updating of an advisory in Section 611. The advisory would

be the appropriate place for non-binding guidance which is of a lengthy nature; regulations would not be the appropriate place for lengthy guidance of this type.

The writer believes this section gives local officials “carte blanche to make children with diabetes go to the nurse's office...” to administer insulin. The writer suggests that language be added to clarify that limits should only be imposed if a real danger exists.

Response: To the contrary, the establishment of locally approved rules regarding self-administration (as envisioned in this section of regulations) is specifically tied to protecting “the health and safety both of the pupil and of the whole student body and staff at the schoolsite.” The authorization for local rules, by its own terms, is not envisioned as “carte blanche.” The suggested addition of a reference to “real danger” would not substantively change the meaning of the existing reference to health and safety protection.

606. Delivery and Storage of Medication.

The writer suggests medication that is self-administered should meet the same criteria as other medication.

Response: The exception related to self-administered medication in this section is appropriate, and it is properly phrased in terms of being medication a student is “allowed to carry for purposes of self-administration.” It would simply be nonsense to say that medication a student is to carry for self-administration is to be stored in a cabinet. It’s a non sequitur.

607. Documentation.

The writer suggests replacing “may” with “shall” on line 1 and adding “consistent with Sections 600-611” in front of “regarding.”

Response: Changing “may” to “shall” would create a mandate for a higher level of service for which no source of reimbursement funding is available. Such a change would be inconsistent with the underlying statute which is discretionary (permissive).

608. Deviation from Authorized Health Care Provider’s Written Statement.

The writer wants to know what “applicable standards of professional practice” mean in this context, who determines the standards, and what the standards are.

Response: “Applicable standards of professional practice” is a phrase used in the proposed regulations only in relation to specifically licensed health care professionals. Such individuals (in their capacities as licensees of the state) will understand the meaning of the phrase and will know what they are required and not required to do. Standards of professional practice are generally established by the various state licensing boards for the health care professions (e.g., Board of Dental Examiners, Medical Board of California, Board of Optometry, and Board of Registered Nursing).

The writer is concerned about the lack of guidance and suggests that there be more stringent regulations for LEAs to follow in the case of medication errors.

Response: The proposed regulations provide as much direction as is possible in relation to the underlying statute. "More stringent regulations" could only be established by creating mandates for higher levels of service for which no source of reimbursement funding is available.

609. Unused, Discontinued and Outdated Medication.

The writer suggests adding "While a local education agency shall not be mandated to assist in administering medications, if they choose to do so, then..." and replacing "may" with "shall" on line 19.

Response: Section 6 of Article XIII B of the California Constitution provides that whenever a state agency (e.g., through regulation) mandates a new program or a "higher level of service" on a local government agency, the state must reimburse the local agency accordingly. Thus, if this suggestion were to be incorporated in the regulations, the result would be the creation of a reimbursable state mandate to the extent that an LEA might choose to administer medication (or assist with medication administration), but not voluntarily implement all of the provisions of this section. In other words, when a program or activity is (per se) discretionary (permissive), then each of the components potentially included in the program or activity is similarly discretionary. Requiring that a whole set of components be provided if any portion of a discretionary program or activity is undertaken creates a reimbursable state mandate to the extent that any of the components is not voluntarily included by the local agency. The non-voluntary components would reflect a mandatory higher level of service.

610. Applicability of This Article.

The writer feels that because the regulations do not provide clear guidance, they may consequently cause LEAs to have to hire additional staff because over disputes of the meaning of the regulations.

Response: The proposed regulations provide as much guidance as is possible within the context of the underlying statute. Prescriptive regulations would create a mandate for a higher level of service for which no source of reimbursement funding exists. The underlying statute is discretionary (permissive); no "additional staff" is required to be employed by any LEA.

The writer does not feel that this section states clearly enough that LEAs may be required to administer medications to certain students in accordance with Section 504 and that as it is worded may be burdensome (as defined in Government Code section 11346.5(a)(13) to parents of children eligible for 504 accommodations.

Response: This section helps emphasize that the underlying statute is discretionary (permissive) and states the simple fact that other enumerated statutes and regulations (within the Education Code and other codes) may be pertinent to the topic of medication administration (or rendering assistance with medication administration) in regard to individual pupils. This section does not change (or purport to change) any requirements of Section 504 of the Rehabilitation Act of 1973. A parent or legal guardian may pursue development of a Section 504 Accommodation Plan and, if he or she does so, must follow all applicable requirements pertaining thereto. There is no need to restate here all of the potentially pertinent requirements of Section 504. The section is clear as written; no change is necessary.

611. Issuance and Periodic Updating of Advisory.

The writer recommends deleting this section. The *Education Code* sections cited to not describe nor require such an advisory, and a non-binding advisory may actually confuse local education agencies since the proposed regulations themselves are “advisory.”

Response: Education Code Section 49423.6 requires the State Board of Education to adopt regulations "regarding the administration of medication in the public schools pursuant to [Education Code] Section 49423." The State Board believes that an advisory would be necessary or beneficial to carrying out its responsibilities under Education Code Section 49423.6. Therefore, it is perfectly reasonable to include this provision in the regulations. The contention that the advisory “may actually confuse” LEAs is simply an assertion, and no compelling argument is offered in support of the assertion. Moreover, the State Board retains approval authority over the advisory to ensure (among other things) that the advisory is consistent with applicable statutes and regulations and promotes clarity in relation to the regulations.

The writer suggests deleting this section because this section would permit the issuance of underground regulations in the guise of “non-binding guidance.”

Response: No foundation is established for this contention. To the contrary, Section 611 (by its own terms) requires that any guidance provided in the advisory must be "non-binding." Moreover, the reference cited for this provision (Education Code Section 33308.5) allows for the issuance only of guidelines that "are merely exemplary." This section of law is typically cited in CDE publications of the type envisioned in this regulation within the context of a statement along the following lines, "The guidance in [name of document] is not binding on local educational agencies or other entities. Except for the statutes, regulations, and court decisions that are referenced herein, the document is exemplary, and compliance with it is not mandatory."

CALIFORNIA STATE BOARD OF EDUCATION

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REPORT ON PUBLIC HEARING CONDUCTED BY STAFF

DATE: August 7, 2003
TO: Members, State Board of Education
FROM: Greg Geeting, Assistant Executive Director

SUBJECT: Permanent Regulations Regarding Administering Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication During the Regular School Day
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Background

At the May 2003 meeting, the State Board initiated the permanent rulemaking process regarding Administering Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication During the Regular School Day. This rulemaking process was begun following the termination of a previous rulemaking effort on medication administration. The previous effort was terminated because amendments being considered were determined to be so substantial as to necessitate a new rulemaking process.

The State Board directed that the public hearing for this rulemaking process be conducted by staff in accordance with subdivision (b) of Section 18460 of Title 5 of the California Code of Regulations.

Report on Public Hearing

Consistent with the requirements of the Administrative Procedure Act, the public hearing regarding the proposed regulations was scheduled for Thursday, August 7, 2003, at the California Department of Education, 1430 N Street, Room 1101, Sacramento, California, beginning at 9:00 a.m. An audiotape of the public hearing was made, and Maryanna Rickner will provide a copy of the audiotape to any State Board member so desiring.

The public hearing was called to order at 9:04 a.m. on the prescribed date. A brief welcoming and introductory statement was given. In the course of that statement, the individual presiding noted that staff of the Board of Registered Nursing – although not presenting formal remarks on the proposed regulations – had commented orally that the portion of the rulemaking package titled “Informative Digest/Policy Statement Overview” is misleading in part. The Informative Digest includes considerable detail concerning the work of the “Medications Committee,” an advisory group established consistent with Education Code Section 49423.6, which called for consultation with specified parties. The detail – while applicable at one point in time to the regulations (regarding medication administration)

REPORT ON PUBLIC HEARING CONDUCTED BY STAFF
Permanent Regulations Regarding Administering Medication to Pupils

August 7, 2003

Page 2

previously considered – is not pertinent to the regulations now under consideration, and it may lead to the conclusion that the advisory group’s work reflected a greater contribution to the now-proposed regulations than was actually the case. Accordingly, the presiding officer offered a modification of the Informative Digest. Subsequently, the California Department of Education’s Regulations Adoption Coordinator indicated that this matter would be appropriately handled as a notation in the Final Statement of Reasons instead of as an amendment to the Informative Digest.

One individual made a presentation at the public hearing. Nancy Spradling, representing the California School Nurses Association (CSNO), presented in concept one change to the proposed regulations.

- Though respecting the fact that statute does not require a school district to administer medication to pupils (or to assist with the administration of medication), CSNO recommends the inclusion of language in the regulations as necessary to require that the regulations’ provisions be followed if a school district chooses to administer medication (or assist with medication administration), as authorized under Education Code Section 49423.

With no other individuals desiring to make presentations, but given that it was only eleven minutes past 9:00 a.m., the individual presiding recessed the public hearing until 9:30 a.m. in the event that another potential presenter might have been delayed. The public hearing was reconvened at 9:32 a.m. No additional presenters had arrived. The public hearing was adjourned at 9:32 a.m.

Response to Comment Presented

Section 6 of Article XIII B of the California Constitution provides that whenever a state agency (e.g., through regulation) mandates a new program or a “higher level of service” on a local government agency, the state must reimburse the local agency accordingly. Thus, if the CSNO recommendation were to be incorporated in the regulations, the result would be the creation of a reimbursable state mandate to the extent that a school district might choose to administer medication (or assist with medication administration), but not voluntarily implement all of the provisions in the regulations. In other words, when a program or activity is (per se) discretionary, then each of the components potentially included in the program or activity is similarly discretionary. Requiring that a whole set of components be provided if any portion of a discretionary program or activity is undertaken creates a reimbursable state mandate to the extent that any of the components is not voluntarily included by the local agency. The non-voluntary components would reflect a mandatory higher level of service.

The CSNO recommendation if incorporated in the regulations would have potentially major cost implications for the state. Thus, as there is no source of funding for a reimbursable state mandate associated with these regulations, incorporation of the CSNO recommendation would render the regulations incapable of being approved by the Department of Finance and the Office of Administrative Law.



SEPTEMBER 2003 AGENDA

SUBJECT Annual Financial Reporting for all K-12 Local Educational Agencies, including Charter Schools, as Required by Assembly Bill 1994 (Chapter 1058, Statutes of 2002) – Adopt Proposed Title 5 Regulations.	X	ACTION
	X	INFORMATION
		PUBLIC HEARING

Recommendation:

Consider comments received during the public comment period and at the public hearing and take action to adopt the regulations and approve the reporting formats related to financial reporting.

Summary of Previous State Board of Education Discussion and Action

At the May State Board meeting, the Board took action to approve the proposed regulations and rulemaking package and directed that technical amendments, to be approved by the Executive Director, be made to the regulations, the alternative form for charter school financial reporting, and parts of the rulemaking package, as necessary, prior to commencement of the 45-day public comment period. The Board directed that, after the 45-day public review period, the public hearing be conducted by staff. An audiotape of the proceeding will be made available to the Board members. A staff-prepared summary and response to comments presented at the public hearing will be submitted as a last minute memorandum.

Summary of Key Issue(s)

Prior to sending the regulations out for public comment, the regulations were revised to reflect comments and suggestions made by Board members. The regulations, the alternative form for charter school financial reporting, and the initial statement of reasons, all as revised, are attached, and are also posted, along with the corrected Notice of Proposed Rulemaking, on the CDE Web site at <http://www.cde.ca.gov/regulations/>.

Additional information regarding comments received during the public review period and during the public hearing will be submitted as a last minute memorandum.

Fiscal Analysis (as appropriate)

None

Attachment(s)

Attachment 1: Proposed Regulations (Pages 1-3) can be found on the following Web site:
www.cde.ca.gov/regulations

Attachment 2: Charter School Unaudited Actuals Financial Report – Alternative Form
(Pages 1-5) can be found on the following Web site: *www.cde.ca.gov/regulations*

Attachment 3: Initial Statement of Reasons (Pages 1-2) can be found on the following Web site:
www.cde.ca.gov/regulations

Last Minute Memorandum

To: STATE BOARD MEMBERS

Date: August 29, 2003

From: Susan Lange

Re: ITEM # 16

Subject ANNUAL FINANCIAL REPORTING FOR ALL K-12 LOCAL EDUCATIONAL AGENCIES, INCLUDING CHARTER SCHOOLS, AS REQUIRED BY ASSEMBLY BILL 1994 (CHAPTER 1058, STATUTES OF 2002) – ADOPT PROPOSED TITLE 5 REGULATIONS

There were no comments during the public hearing held on August 25, 2003; however, two letters were received during the 45-day public comment period regarding the proposed regulations and the alternative form for charter school financial reporting. The letters are included as Attachments 2 and 3.

1. The Department of Finance (DOF) suggested an amendment to Section 15070 to clarify that the regulations proposed in Section 15070 do not impose a mandate on local educational agencies (LEAs) to use the standardized account code structure (SACS). Even though all school districts and county offices of education have voluntarily opted into the program by accepting the funding provided by Section 39 of Chapter 299, Statutes of 1997, the DOF was concerned that a section of the proposed regulations could be construed as imposing a State mandate on school districts. We have incorporated the language suggested by the DOF into Section 15070, although with their concurrence, we have rearranged the proposed sentence.

The wording of Section 15070 as proposed by DOF (and modified by CDE) is shown below with underlined and strikeout type to show the changes:

15070. Submission of Annual Financial Statements

Except as provided in Section 15071, every county office of education, school district, charter school, and educational joint powers agency (as defined in Education code Section 41023) that elects to use the standardized account code structure, subject to the provisions of Section 39 of Chapter 299, Statutes of 1997, shall submit an annual statement of receipts and expenditures in the format of the standardized account code structure, ~~subject to the provisions of Section 39 of Chapter 299, Statutes of 1997.~~

2. A letter expressing opposition to the proposed regulations was received from Eric Premack, an interested party.

Mr. Premack expressed various concerns about requiring charter schools to report using SACS and the level of detail contained in the alternative form for charter schools.

CDE response: The regulations allow, but do not require, charter schools to report in the SACS format. Also, as previously discussed, we believe the alternative form for charter schools is an appropriate level of detail, and is not onerous for charter schools. Therefore, we recommend no changes to the regulations or alternative form as a result of these comments.

Please note that an inadvertent error was made when the draft regulations were released for public comment, in that some last minute, non-substantive changes were not incorporated. We have already confirmed with the Office of Administrative Law (OAL) that these changes are non-substantive and may be included in the current package with no requirement for an additional public comment period. These changes, along with the change recommended by the Department of Finance, are included in the revised regulations in Attachment 1 (see ~~strikeout~~, **bold**, and double underlined type).

Recommendation

We recommend that the State Board adopt the regulations with the understanding that if OAL finds that the changes are substantive, the proposed regulations will be immediately sent out for a 15-day public comment period and will be brought back to the State Board for approval in November.

1 Title 5. EDUCATION

2 Division 1. State Department of Education

3 Chapter 14. School Finance

4 Subchapter 2. Budgeting, Accounting and Reporting

5
6 Add Article 2 (commencing with Section 15060) to read:

7 **Article 2. Standardized Account Code Structure**

8 **§ 15060. Standardized Account Code Structure**

9 (a) The California School Accounting Manual adopted by the State Board of Education pursuant
10 to Education Code section 41010 shall incorporate a standardized account code structure which is a
11 statewide, uniform financial reporting format (based on the definitions and comprehensive chart of
12 accounts set forth in the California School Accounting Manual). The structure shall be designed to
13 provide a flexible statewide accounting system for local educational agencies to use in budgeting and
14 reporting their revenues and expenditures. The structure shall accommodate local, state, and federal
15 reporting needs as determined by the State Board.

16 (b) The standardized account code structure shall include, but not be limited to, the following
17 fields:

18 (1) Fund/Account Group. Each fund is a fiscal and accounting entity, with a self-balancing set of
19 accounts recording cash and other resources, all related liabilities and residual equities and balances or
20 changes therein. Fund types include, but are not limited to, Governmental Funds, Proprietary Funds,
21 Fiduciary Funds, and Account Groups.

22 (2) Project Year. The project year field is used to distinguish the activities of the same grant with
23 different project years within the fiscal year.

24 (3) Resource (Project/Reporting). The resource field identifies the source of funding and is used
25 for accumulating revenues and expenditures to meet various specialized reporting requirements and
26 tracking categorical activities, such as No Child Left Behind (NCLB) Act, Economic Impact Aid, and
27 School Improvement Program.

28 (4) Goal (Program). The goal field defines the objective, such as the target population being
29 served or the education mode (e.g., regular education, special education, or vocational education).

30 (5) Function. The function field describes the activity being performed for which a service or
31 material object is acquired, for example, instructional services, pupil services, and general administration.

32 (6) Object. The object field describes the service or commodity obtained as a result of a specific
33 expenditure (e.g., salaries, books, and capital outlay).

34 (7) Site. The site field is optional, providing local educational agencies the ability to designate
35 specific school sites within their individual accounting systems.

1 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 41010, Education Code.

2
3 Add Article 3 (commencing with Section 15070) to read:

4 **Article 3. Annual Financial Statements**

5 **§15070. Submission of Annual Financial Statements.**

6 Except as provided in Section 15071, every county office of education, school district, charter
7 school, and educational joint powers agency (as defined in Education Code section 41023) **that elects to**
8 **use the standardized account code structure, subject to the provisions of Section 39 of Chapter 299,**
9 **Statutes of 1997,** shall submit an annual statement of receipts and expenditures in the format of the
10 standardized account code structure, ~~subject to the provisions of Section 39 of Chapter 299, Statutes of~~
11 1997. The form for the annual statement shall be prescribed and amended periodically (to accommodate
12 changes in statute or generally accepted accounting principles for government agencies) pursuant to
13 Education Code sections 1628 and 42100 and shall reflect Section 15060.

14 NOTE: Authority cited: Section 33031, Education Code. Reference: **Assembly Bill 1578, Section 39,**
15 **Chapter 299, Statutes of 1977, and** Sections 1628, 41010, 41023, and 42100, Education Code.

16 **§15071. Alternative Form for Submission of Annual Financial Statements by Charter Schools.**

17 (a) Charter schools have the option of reporting their annual financial statements using an
18 alternative form prescribed and amended periodically (to accommodate changes in statute or generally
19 accepted accounting principles for government agencies) pursuant to Education Code section 42100. The
20 alternative form shall be structured for electronic submission of data and shall include the following
21 information:

22 (1) Revenues. An accounting of all funds received during the preceding fiscal year, including
23 identification of specific details within the major revenue categories of revenue limit sources, federal
24 ~~sources~~**revenues**, other state ~~sources~~**revenues**, and other local ~~sources~~**revenues.**

25 (2) Expenditures. An accounting of all funds expended during the preceding fiscal year, including
26 identification of specific details within the major expenditure categories of certificated salaries, ~~classified~~
27 **non-certificated** salaries, employee benefits, books and supplies, services and other operating expenses,
28 capital outlay, and other outgo.

29 (3) Other information. An accounting of additional information including beginning and ending
30 fund balances, other sources and uses, assets, liabilities, and reserves.

31 (b)(1) The reporting of financial data by charter schools that are established as governmental
32 accounting entities shall reflect the definitions, and to the extent necessary for accurate financial
33 reporting, the guidance provided in the California School Accounting Manual.

34 (b)(2) The reporting of financial data by charter schools that are established as nongovernmental
35 accounting entities shall reflect the definitions, and to the extent necessary for accurate financial

1 reporting, the guidance provided in the California School Accounting Manual, except for accounting
2 differences required due to their nonprofit status.

3 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 1628, 41010, and 42100,
4 Education Code.

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9/4/03



DEPARTMENT OF
FINANCE

GRAY DAVIS, GOVERNOR

915 L STREET ■ SACRAMENTO, CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

August 20, 2003



Debra Strain, Regulations Adoption Coordinator
Department of Education
Legal Division
1430 N Street, Room 5319
Sacramento, CA 95814

Dear Ms. Strain:

The Department of Finance has reviewed the proposed regulations regarding forms for annual financial statements, as published July 4, 2003, and recommends amendments as outlined below.

While we support full implementation of the Standardized Account Code Structure (SACS), we are concerned that a section of the proposed regulations could be construed as imposing a State mandate on school districts. Our understanding is that all school districts have received funding for conversion to SACS and have voluntarily opted into the program. However, we are concerned that the proposed language could potentially be interpreted as now requiring all districts to follow the provisions of the enabling legislation and participate in SACS. This could potentially lead to a mandate claim, even if districts are already voluntarily completing these activities.

Our understanding is that no mandate is intended. To clarify that these regulations do not impose a mandate, we recommend that proposed section 15070 be amended as follows:

§15070. Submission of Annual Financial Statements

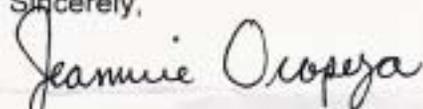
Except as provided in Section 15071, every county office of education, school district, charter school, and educational joint powers agency (as defined in Education Code Section 41023) **that elects to participate in the standardized account code structure program** shall submit an annual statement of receipts and expenditures in the format of the standardized account code structure, subject to the provisions of Section 39 of Chapter 299, Statutes of 1997. The form for the annual statement shall be prescribed and amended periodically (to accommodate changes in statute or generally accepted accounting principles for government agencies) pursuant to Education Code Sections 1628 and 42100 and shall reflect Section 15060.

We believe that this amended language would eliminate potential mandate issues and still provide for the desired financial reporting, as all school districts have voluntarily decided to participate in SACS.

Ms. Debra Strain
August 20, 2003
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If you have any questions regarding this matter, please feel free to contact Dan Troy, Principal Program Budget Analyst, or Phillip Dean, Finance Budget Analyst, at (916) 445-0328.

Sincerely,



Jeannie Oropeza
Program Budget Manager

cc: Ms. Caryn Becker, Department of Education
Mr. Eric Skinner, Office of the Secretary for Education
Ms. Rae Belisle, State Board of Education

MEMORANDUM

TO: DEBRA STRAIN, CDE REGULATIONS ADOPTION COORDINATOR
FROM: ERIC PREMACK
SUBJECT: PROPOSED REGULATIONS CONCERNING CHARTER SCHOOL FINANCIAL REPORTING
DATE: 9/16/2003

I am writing to express opposition to proposed California Administrative Code of Regulations, Title V, Sections 15060, 15070, and 15071. These proposed regulations are in violation of the California Administrative Procedure Act (APA) and should be rejected.

Assembly Bill 1994 of the 2002 legislative session contained narrow authorization for requiring limited reporting of annual receipts and expenditures by charter schools. Prior to the enactment of AB 1994, charter schools were not required to submit such reports, in alignment with the general goals of the Charter Schools Act to avoid unnecessary administrative paperwork and shift from a rule-based accountability system to a performance-based one. AB 1994's provisions were narrowly tailored and amended at the urging of the charter school community to require a regulatory review to ensure that the burden imposed by the new law was held to an absolute minimum. They should be rejected for the reasons summarized below.

Initial Statement of Reasons is Incomplete

While school districts and county offices were provided incentive funding to implement the SACS system, charter schools were not and are not required by law to use the complex and costly SACS system. The Statement fails to note these key facts and uses the mere existence of the SACS system as the primary justification for imposing conformity to the system on charter schools. Since charter schools are not subject to these requirements, the Statement does not clearly state either the necessity or a sound rationale for imposing the SACS system, in whole or in part, on charter schools.

Excessive Burden

The regulations illegally and inappropriately incorporate and mandate either a full or partial implementation of the SACS system for charter schools.

The SACS system is unique to California's public education system. Though the SACS system is certainly elegant and powerful, it is also very burdensome and complex. The system specifies a very lengthy and complex account code string (19+ digits in 6 fields) and compliance with a complex SACS manual.¹ Though the alternative format prescribed in the regulations and form employ only a part of the SACS system (the object field), the proposed regulations would require charter schools to

¹ The massive manual for this system is available on line: www.cde.ca.gov/fiscal/sacs/csam/

adopt a substantial part of SACS. Though some charter schools are able to do this, especially those who procure accounting services from school districts or county offices of education, others would be very challenged. Many would need to re-program their existing accounting systems to conform to SACS (either in whole or in part) and/or would need to add complexity to their current system to track in both the existing and SACS formats, in effect mandating keeping of a dual set of books. Though the SACS system may be "so familiar" to school districts and county offices, it is quite foreign to many charter school operators.²

SACS is burdensome and costly for schools to implement in many respects. First, there are very few electronic accounting systems available to support SACS and the few that are available are extremely complex and costly. Software licenses can cost in the hundreds of thousands of dollars and generally require substantial annual maintenance and upgrade support.³ Second, implementing such a complex system requires more sophisticated and costly accounting and bookkeeping staff. Third, most also require a sophisticated mainframe, mini-mainframe, or high-powered file server computer and network to run and (fifth) these must be supported by costly information technology staff. For these and other reasons, many school districts now regret having committed to the SACS system for the modest incentive funds provided. Some charter schools enjoy cooperative relationships with school districts or county offices of education can procure access to such systems economically by sharing the cost. Many other charter schools, however, have less cooperative and supportive relations with districts and county offices, have invested heavily in their own independent systems, and procure accounting services on their own. Still others function as an arm of a pre-existing nonprofit corporation and the corporation's accounting systems rarely are programmed to support SACS.

For the many charter schools that are incorporated as nonprofit public benefit corporations, imposing SACS is to impose a fundamentally incompatible system. Generally accepted accounting principles for governmental agencies (which underpin the SACS system) are fundamentally different from those governing nonprofit corporations. Nonprofit accounting standards, for example, generally call for "full accrual" accounting practices which are fundamentally different from the "modified accrual" practices used by governmental agencies and which underpin SACS. The two systems also book assets under very different rules. SACS also mandates the establishment of several different accounting "funds" whereas nonprofit accounting standards permit a high degree of flexibility in fund structure. For these and other reasons, SACS is largely incompatible with many charter schools accounting standards.

The level of detail demanded by the proposed regulations and forms is also unnecessarily high and burdensome. Though the Statement of Reasons characterizes the alternative format as requesting "very basic summary" data, it actually requests an unnecessarily high level of detail (over 130 lines worth!). There is no apparent public purpose or need for the 130-line level of detail mandated here. Is there, for example, a compelling legal mandate or "need" to distinguish between a school's expenses on "non-certificated instructional aides" versus "non-certificated support?" In many

² The California Department of Education maintains a large web site to explain and support the complex SACS system (www.cde.ca.gov/fiscal/sacs/index.asp). This site contains a list of "frequently asked questions." It includes dozens of questions spread across over 20 topic areas—proof positive of the system's complexity (www.cde.ca.gov/fiscal/sacs/sacsfaqs/default.asp).

³ We have contacted most of the vendors of such systems (www.cde.ca.gov/fiscal/sacs/provider.htm). None expressed a willingness or had the capacity to sell such systems to individual charter schools, fearing that charter schools lacked the very sophisticated hardware, staff, and expertise to load and operate their software.

charter schools, especially small ones, staff "wear many hats" and do not fit into traditional job classifications or neat boxes.

The statutes (Education Code Section 42100(b)) calls for charter schools to report only a "statement of all receipts and expenditures." The proposed form, however, calls for extensive additional data beyond receipts and expenditures, including (1) other financing sources and uses (section "D"), (2) net fund balance change (section "E"), (3) fund balance information "(section F), (4) a detailed enumeration of assets and liabilities (sections "G" and "H"), (5) net fund balance (section "I"), and (6) additional data regarding federal funds expended on capital outlay, debt service, and community services. These several sets of additional data are clearly beyond the scope of the statute.

In lay terms, the level of detail requested here is akin to a full Form 1040 on a federal income tax return when "very basic summary" data, which should suffice and be the goal here according to the Statement of Reasons, would be more akin to a "1040-EZ" form. The form should be condensed to truly summary data (e.g., a one page "EZ" form or less) and should provide charter schools with a high and reasonable degree of flexibility in their account code structure.

Sneaking SACS Past APA Review

SACS itself was adopted without regulatory review and should have been. Though many school districts and county offices of education were lured in to implementing SACS with modest financial incentives, these proposed regulations attempt to "formalize" and mandate SACS without enumerating a specific necessity or rationale and without consideration of any alternatives, in direct violation of the APA. Specifically, proposed Section 15060 mandates the imposition of a SACS-like structure as a minimum ("not limited to"). Instead of glibly sneaking the SACS mandate into regulations, the State Board and Department should instead engage in a full review of alternatives, especially less burdensome and costly ones. It is a virtual certainty that a system that is less complex and burdensome could be devised and meet the requirements of applicable laws.

I would be pleased to discuss these and other concerns regarding these regulations.

Eric Premack

e-mail: epremack@aol.com

phone: 916.296.8859



SEPTEMBER 2003 AGENDA

SUBJECT	X	ACTION
Funding Determinations for Charter Schools Offering Nonclassroom-based Instruction Pursuant to Senate Bill (SB) 740 (Chapter 892, Statutes of 2001) – Adopt Proposed Title 5 Regulations		INFORMATION
		PUBLIC HEARING

Recommendation:

Consider comments received during the 15-day public comment period and take action to adopt the proposed regulations.

Summary of Previous State Board of Education (SBE) Discussion and Action

In July 2002, the SBE approved permanent regulations regarding funding determinations for nonclassroom-based charter schools. In May 2003, the Office of Administrative Law (OAL) disapproved those regulations citing technical deficiencies in the rulemaking package and that certain documentation should have been made available during the public review period. In June 2003, the SBE directed staff to correct the technical deficiencies in the rulemaking file and to send the necessary documentation out for an additional 15-day public comment period.

Summary of Key Issue(s)

The documentation sent out for public comment was revenue and expenditure data reported to the California Department of Education in the standardized account code structure (SACS) by small school districts (defined as districts with fewer than 1,000 units of average daily attendance) (Attachment 1). These data were used by the Advisory Commission on Charter Schools in its development of the percentages for certificated employee salaries and benefits expenditures, and instruction and instruction-related expenditures that are included as funding criteria in the SB 740 regulations.

Two individuals submitted comments during the 15-day period. The first individual’s comments were not related to the data; therefore, no changes to the proposed regulations are necessary. The other individual’s comments were specifically related to the data; however, staff are not recommending any changes be made to the proposed regulations. The specific comments and staff responses are included in Attachment 3.

Fiscal Analysis (as appropriate)

N/A

Attachment(s)

- Attachment 1: Selected Financial Data for Small School Districts (Pages 1-5) (not available electronically)
- Attachment 2: Title 5, California Code of Regulations, Division 1, Chapter 11, Subchapter 19, Charter Schools (Pages 1-16) (not available electronically)
- Attachment 3: Draft Summary and Response to the Substantive Comment Received During the Second Period the Modified Text was Available to the Public (June 24, 2003 through July 9, 2003) (Pages 1-6)

Draft Summary and Response to the Substantive Comment Received During the Second Period the Modified Text was Available to the Public (June 24, 2003 through July 9, 2003)

Comment: Michael Coppess, representing Opportunities for Learning Charter Schools, made nine specific comments related to the revenue and expenditure data being entered into the rulemaking file:

- 1) It is questionable whether the State Board could have relied upon the document containing data for small school districts because a partially obscured date on the document appears to be May 8, 2003, but the proposed regulations were initially adopted in June 2002.
- 2) There is no justification for requiring charter schools to devote significantly greater percentages of revenues to certificated employees than do the sampled small school districts. Based on the data provided, the sample of small school districts spent 38.37 percent of revenues on certificated employee salaries and benefits, but the proposed regulations require charter schools to spend 50 percent; there is no discernable nexus between the percentages presented in the data for small school districts and the percentages in the proposed regulations, and it is unreasonable for the State Board to require charter schools to spend significantly more on certificated employees than small school districts do. The rulemaking file does not contain any document or analysis explaining how the small school district data forms the basis for spending requirements in the proposed regulations.
- 3) There is no justification for requiring charter schools to devote significantly greater percentages of revenues to instruction related expenditures than do the sampled small school districts. Based on the data provided, the sample of small school districts spent 50.12 percent of revenues on instruction or instruction-related activities, but the proposed regulations require charter schools to spend 80 percent; there is no discernable nexus between the percentages presented in the data for small school districts and the percentages in the proposed regulations, and it is unreasonable for the State Board to require charter schools to spend significantly more on instruction-related expenses than do small school districts. The rulemaking file does not contain any document or analysis explaining how the small school district data forms the basis for spending requirements in the proposed regulations.
- 4) The data for small school district refutes the proposed regulation's conclusion that charter schools spending less than 40 percent of revenues on certificated employees are not substantially dedicated to instruction and must be denied funding. The proposed regulations summarily equate school substance with the amount spent on certificated employees. It is unreasonable that charter schools are denied funding for certificated employee spending that exceeds that of the districts used as the model for the regulations, and the small school district data bears no discernable relationship to the spending levels required in the proposed regulations to avoid zero funding.

The rulemaking file does not contain any document or analysis explaining that disparity. The State Board has largely unguided discretion to continue to fund schools not spending at the required levels and the proposed regulations do not contain any clear guidance on how the State Board may exercise its discretion to fund.

5) The data for small school district refutes the proposed regulation's conclusion that charter schools spending less than 60 percent of revenues on instruction-related activities are not substantially dedicated to instruction and must be denied funding. The proposed regulations summarily equate school substance with the amount spent on certificated employees. It is unreasonable that charter schools are denied funding for instruction-related spending that exceeds that of the districts used as the model for the regulations, and the small school district data bears no discernable relationship to the spending levels required in the proposed regulations to avoid zero funding. The rulemaking file does not contain any document or analysis explaining that disparity. The State Board has largely unguided discretion to continue to fund schools not spending at the required levels and the proposed regulations do not contain any clear guidance on how the State Board may exercise its discretion to fund.

6) Small district spending as a percentage of expenditures is not relevant to determine desirable charter school spending as a percentage of revenue. The chart on page 4 of the data made available for public comment is the only place in the document that expresses total certificated employee spending and total instruction-related spending in any form of percentage; however, the chart is not relevant to the proposed regulations. There is a significant difference between percentages calculated based on expenditures and percentages calculated based on revenues.

7) It is unclear what the data for small school districts represents; there is no description of what kinds of districts are included in the sample other than the fact that they are small districts and there is no description of the types of programs offered in the sampled small districts. The data could encompass a range of distinct districts that each present distinct funding and spending patterns. Since it is unclear what the data represents, average small school district spending data should not be used to assess or judge any school or program. There is no reason to believe that the average spending patterns in the selected small districts represent a desirable goal for any school. The Department of Education has previously cautioned against using data derived from statewide averages, such as in the 2001 Fact Book. Using small school district spending averages as the determining factor for nonclassroom-based charter schools is contrary to the rationale underlying the Charter School Act in that it requires them to conform to traditional small district spending patterns when charter schools are supposed to be (and are) different from traditional school districts.

8) The teacher-pupil ratios are mentioned in SB 740 as criteria that must be considered in fixing funding, but the proposed regulations list ratios as a factor that may be considered. It is unreasonable to rely on teacher spending data rather than teacher student ratios because schools with higher pupil-teacher ratios will be declared substantially devoted to instruction as long as it's spending at least 40 percent of revenue on certificated employees. In contrast, a school with a low pupil-teacher ratio but that does not spend at least 40 percent of revenue on certificated employees will not be declared substantially devoted to instruction.

9) The proposed regulations do not meet the requirements for the necessity standard because the rulemaking file did not contain any documents supporting the proposed regulations spending requirements, no documentation was presented of the source of the percentages, how the percentages were derived, or how the percentage related to charter school independent study programs. The document containing data from small school districts still does not provide facts from which a reasonable person could reach any conclusion about the spending requirements in the proposed regulations. The rulemaking file contains no basis explaining how the small school data was extrapolated to support the spending requirements in the proposed regulations or how those spending determinations were determined.

Response:

1) The document in question is a print out of the financial data for small school districts that was used in developing these regulations. The commenter has a legible, but relatively “dirty” copy of that print out, and the date that it was produced is obscured on that copy. However, the actual date of the print out is May 8, 2002 and the data itself was reported by the school districts for the 2000-01 fiscal year and publicly available. Therefore, this data was available to and used by the State Board as a resource in developing the criteria in the proposed regulations adopted June 2002.

2) As stated in responses to previous comments made by Mr. Coppess and others during the first 15-day public comment period (June 12, 2002 to June 26, 2002) on the modified text of the regulations, the percentages in the proposed regulations are not drawn directly from the school district data. These data were used as a starting point for the development of the percentages in the proposed regulations, because the data provided the State Board with a sense of how small school districts spent their revenues. That sense of how school districts spend their revenues was important in developing expenditure criteria for the proposed regulations that are not arbitrary and that can actually be achieved by nonclassroom-based charter schools. Small school districts only were used because those districts are the closest in size to charter schools. The relevant expenditure percentages for small school districts are generally lower than those for all school districts and for large school districts. This is because the fixed costs related to administration and other noninstructional activities in small school districts will be a higher percentage of revenues in small districts versus large ones.

From there, the actual school district expenditure percentages were adjusted to reflect expenditures that in the judgment of the State Board, would demonstrate that a charter school’s nonclassroom-based instruction is substantially dedicated to the instructional benefit of pupils. The 50 percent standard (and the 80 percent standard related to instruction-related activities) in the proposed regulations is high, but the State Board determined that SB 740 intended that the standards be exceptional in order for schools to receive full funding. The 50 percent and 80 percent criteria are in the State Board’s judgment, necessary to demonstrate a *substantial* dedication to instruction. In addition, the 38.37 percent of revenues spent by the sample of small school districts on certificated employee salaries and benefits is a percentage of total revenues. The 50 percent expenditure criteria in the proposed regulations is a percentage of public revenues, which is a subset of total revenues. Although the school district data was not examined in this way in the development of the proposed regulations, if a subset of the districts’ total

revenues were used rather than total revenues, the 38.37 percent figure would also be higher for small school districts. In any case, the two expenditure percentages are not, and are not intended to be, directly comparable.

The documents made available for public comment reflect the totality of the information used as a reference by the Advisory Commission on Charter Schools and State Board in developing the criteria in the proposed regulations. These documents reflect the raw revenue and expenditure data and percentage calculations by individual expenditure categories that comprised the working documents used. As previously explained, none of these percentages were directly used in the development of the criteria in the proposed regulations; that is, the percentages derived from these data are not the same, nor intended to be the same, as the percentage criteria in the proposed regulations. The data were an informative starting point.

3) This comment is similar to the previous comment, and the response describing how and why small school district data were used, and why the percentage standards are high, are the same as in the previous response.

4) How the small school district data was used in the development of the percentage criteria in the proposed regulations has been described previously. Because this data was not used directly to set the percentage criteria in the regulations, there will not be a direct link between what small school districts spend on certificated employee salaries and benefits and the minimum required percentage expenditures on certificated employee salaries and benefits that charter schools must meet in these proposed regulations. See also the response to comment #7 for additional discussion of the data.

Comments related to the determination of a school's "substance" and the discretion to set funding levels provided to the State Board by these proposed regulations are not related to the specific reason (i.e., the data) for the additional 15-day public comment period, and therefore, do not require a response. However, to summarize information already provided in response to previous comments and in the necessity sections of the final statement of reasons that address these comments, the following response is provided. The State Board determined that it is not unreasonable to expect that nonclassroom-based charter schools spend at least 40 percent of public revenues on certificated employees and at least 60 percent of total revenues on instruction-related activities in order for a school to demonstrate minimal dedication to instruction. The proposed regulations do equate the amount spent by the school on certificated employee salaries and benefits, in addition to the amount spent on all instruction-related activities, with a school's "substance," that is, whether the instruction provided by the school is substantially dedicated to the instructional benefit of the pupils. SB 740 (*Education Code* Section 47634.2(a)(1)) requires that the proposed regulations specify that the nonclassroom-based instruction of a school receiving a determination of funding be substantially dedicated to the instructional benefit of the student, but provides the State Board broad discretion in establishing the criteria for making that determination of funding. Contrary to Mr. Coppess' assertion that the proposed regulations do not provide any clear guidance how the State Board may exercise its discretion to fund, the regulations do provide very specific guidance in the expenditure criteria. However, the regulations do need to provide the ability for the State Board to exercise discretion (which Mr. Coppess concedes that the State Board legitimately has) on a

potentially different circumstances of each school.

5) This comment is similar to the previous comment, and that response also addresses these comments.

6) Mr. Coppess is correct that spending as a percentage of expenditures is not relevant to determine desirable charter school spending as a percentage of revenue, and that the chart and percentage in it are not relevant to the proposed regulations. The chart on page 4 was provided for public comment because it was developed as a working document based on the raw data, and because the Advisory Commission on Charter Schools and the State Board did consider establishing percentage criteria based on expenditures rather than revenues. The Advisory Commission on Charter Schools and State Board decided not to look at percentage of expenditures because of the very discrepancy described by the commentor. Most charter schools (and school districts for that matter) do not spend all of the revenues that they receive in a fiscal year, leaving some funds unspent in reserve. This is a legitimate practice so that there will be funds available to handle any unforeseen economic circumstances that may arise during the year. However, in the context of developing the criteria in these proposed regulations, there was concern by the Advisory Commission on Charter Schools and the State Board that if those unspent revenues were not part of the percentage calculations, then there would be an incentive for schools to keep funds in reserve and not spend them. If expenditures is the denominator in the calculation of the percentages, then the certificated employee and instruction-related expenditure percentages are going to be larger than if total revenues form the denominator of the calculation. The result could have been that schools could have inflated their percentages by spending less. And spending less could lead to less instructional benefit to the students, which is contrary to what SB 740 itself encourages.

7) The data provided for small school districts and the descriptions of what kinds of districts are included in the sample are exactly as described on the document. It is data from all school districts with less than 1,000 units of average daily attendance (ADA) reporting financial data in SACS (the standardized account code structure). The expenditure and revenue data reflects revenues and expenditures from all funds, except the charter school fund (which reflects financial data reported for charter schools), and for all programs. Charter schools data were excluded from the data to obtain “pure” district data. Mr. Coppess is correct that the data could encompass a range of district funding and spending patterns, and that the types of programs offered by these districts may or may not include independent study or nonclassroom-based programs. These are all reasons that the percentage criteria in the proposed regulations do not mirror the percentages that may result from this data. The Advisory Commission on Charter Schools and the State Board recognized that small school district revenue and expenditure patterns are not directly or perfectly comparable to those of charter schools. The school district data provided a starting point for the development of the percentage criteria and for the discussion of what might be considered “reasonable” expenditure expectations from charter schools. The Advisory Commission on Charter Schools and the State Board then exercised their own expert judgment, based on the direct experience of many of those individuals in operating charter schools, to establish the desirable spending goals for nonclassroom-based charter schools. As the commentor previously noted, the percentage criteria in the proposed regulations

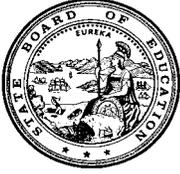
are different from percentages that would result from small school district data. These differences reflect the

fact that nonclassroom-based charter schools are different from school districts, and the presumption of SB 740 that nonclassroom-based charter schools do not have the same expenditure requirements as school districts and classroom-based charter schools (such as related to operating and maintaining facilities), and that they could dedicate significantly more of their revenue directly to instruction and instruction-related activities.

The proposed regulations do not require nonclassroom-based charter schools to conform to traditional small district spending patterns because they specifically establish different percentage criteria from the percentages that can be derived from the small school district data. The proposed regulations also recognize that not all nonclassroom-based charter schools conform to average spending patterns or to each other in their spending patterns by preserving the ability of the State Board to deviate from the specific criteria on a “reasonable basis” in making funding determinations for schools (Section 11963.4 of the proposed regulations). SB 740 and the proposed regulations allow for case-by-case consideration of each charter school’s funding determination request to allow for the consideration of circumstances unique to a particular charter school in making a funding determination for that school.

8) These comments related to the pupil-teacher ratios are not directly related to the specific reason (i.e., the data) for the additional 15-day public comment period, and therefore, do not require a response. The pupil-teacher ratio that nonclassroom-based charter schools are required to maintain is required by other statutes and regulations, unrelated to SB 740. There were verbal concerns expressed by members of the charter school community and members of the Advisory Commission on Charter Schools that these proposed regulations not establish standards for these pupil-teacher ratios that would differ from those already required in law. In addition to the inconsistency that would result, there was a concern that otherwise legal pupil-teacher ratios would be used to penalize charter schools in the SB 740 funding determination process. Therefore, these regulations only require that nonclassroom-based charter schools demonstrate that they have legally compliant pupil-teacher ratios as one of the criteria for receiving full funding. There was no need to consider school district pupil-teacher ratios in developing this criterion.

9) The data that were examined by the Advisory Commission on Charter Schools and the State Board was made available. The direct link between that data and the expenditure criteria in the proposed regulations that Mr. Coppess does not exist. In the end, the Advisory Commission on Charter Schools and the State Board of Education exercised their judgment in setting expenditure criteria that would demonstrate that a charter school’s nonclassroom-based instruction is substantially dedicated to the instructional benefit of the pupils. The previous responses to other components of this comment thoroughly explain how the data was used and the resulting criteria in the proposed regulations were derived.



CALIFORNIA STATE BOARD OF EDUCATION

**ITEM
#18**

SEPTEMBER 2003 AGENDA

<u>SUBJECT</u>	X	ACTION
Alternative Schools Accountability Model (ASAM) – Adopt Proposed Title 5 Regulations	X	INFORMATION
		PUBLIC HEARING

Recommendation:

Consider comments received during the public comment period and at the public hearing and take action to adopt the regulations.

Summary of Previous State Board of Education Discussion and Action

In December 2002 and February 2003, the State Board of Education (State Board) approved a total of eight pre-post assessment instruments for use as locally adopted indicators of achievement in the ASAM. The State Board approved emergency regulations to implement the assessment instruments on June 11, 2003 and the Office of Administrative Law approved the regulations on July 21, 2003. The proposed regulations have been posted on the California Department of Education’s Proposed Rulemaking/Regulatory Actions Web site. A public hearing is scheduled for September 9, 2003 following a 45-day public comment period. An audiotape of the hearing will be made available to Board members. A summary and response to comments presented at the public hearing will be submitted as a last minute item.

Summary of Key Issue(s)

Regulations are needed to allow ASAM schools that select a locally adopted assessment of achievement in writing, reading, or mathematics as an accountability indicator to use the approved instruments in the 2003-2004 school year. Emergency regulations are now in place for 120 days. The regulations must be made permanent to complete the rulemaking process.

Fiscal Analysis (as appropriate)

None

Attachment(s)

- Attachment 1: [Title 5. Education, Notice of Proposed Rulemaking, Alternative Schools Accountability Model \(ASAM\) \(Pages 1-4\)](#)
- Attachment 2: [Title 5. Education, Division 1. State Department of Education, Chapter 2. Pupils, Subchapter 4. Statewide Testing of Pupils and Evaluation Proceedings \(Pages 1-5\)](#)
- Attachment 3: [Initial Statement of Reasons, Alternative Schools Accountability Model \(ASAM\) \(Pages 1-2\)](#)
- Attachment 4: [Public Comments on the Proposed Alternative Schools, Accountability Model Pre-Post Assessment Regulations](#)

Additional Information

The State Board of Education (SBE) has scheduled a public hearing on September 9, 2003. Any public comment received at the hearing will be summarized and responded to in a Last Minute Memorandum.

CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street; P.O. Box 944272
Sacramento, CA 95814-5901



TITLE 5. EDUCATION

CALIFORNIA STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Alternative Schools Accountability Model (ASAM)

[Notice published July 25, 2003]

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

The State Board will hold a public hearing beginning at **9:00 a.m. on Tuesday, September 9, 2003**, at 1430 N Street, Room 6303, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on Monday, September 8, 2003**. The Board will consider only written comments received by the Regulations Adoption Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
E-mail: dstrain@cde.ca.gov
Telephone : (916) 319-0641

AUTHORITY AND REFERENCE

Authority: Section 33031, Education Code.

Reference: Section 52052, Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board proposes to adopt Article 5 and Sections 1068-1074 in Title 5 of the California Code of Regulations (CCR). This article and sections concern requirements for administering, scoring, and

reporting locally adopted pre-post assessments by schools that are registered in the Alternative Schools Accountability Model (ASAM) and have chosen to adopt a pre-post assessment instrument as an indicator of achievement for use in the ASAM.

The proposed regulations are intended to assure that the pre-post assessments are administered, scored, and reported in a consistent, reliable, valid, and fair manner statewide.

Section 1068 specifies that Article 5 applies only to schools that are registered in the Alternative Schools Accountability Model (ASAM) and have chosen to adopt a pre-post assessment instrument as an indicator for use in the ASAM.

Section 1069 defines the meaning of “Pre-post assessment instrument,” “Pre-test,” “Post-test,” “ASAM test site coordinator,” “Test Administrator,” and “Long-term student,” as they are used in Article 5.

Section 1070 requires the ASAM test site coordinator to oversee the administration of all pre-post assessment instruments and to ensure that the instructions provided in the publisher’s assessment administration manual are followed.

Section 1071 states that any certificated employee of a school district trained in the administration of the pre-post assessment instruments, or a trained paraprofessional employee of the school district under the direct supervision of a trained certificated employee, may administer the pre-post assessment instrument.

Section 1072 is designed to ensure the security of the pre-post assessment instruments. It requires ASAM test site coordinators to sign the ASAM Pre-Post Assessment Security Agreement acknowledging that the pre-post assessment instruments are secure, and agreeing to safeguard them in specified ways. This section also requires all persons having access to pre-post assessment instruments to sign the ASAM Pre-Post Assessment Security Affidavit. The affidavit requires signatories to acknowledge that they will have access to the ASAM pre-post assessment instruments, that they understand that the materials are highly secure, and that it is their professional responsibility to protect the security of the assessment instruments in specified ways.

Section 1073 requires the ASAM site coordinator supervise all scoring of pre-post assessment instruments that is done at the school site or district office and to monitor the contract for any scoring activities carried out by an external contractor. This section also specifies that all scoring must be done following the instructions and using the answer keys provided by the test publisher.

Section 1074 requires school districts that have adopted a pre-post assessment instrument to collect specified information for each long-term student enrolled in the school and submit the results to CDE or its designee by July 31 each year for purposes of aggregate analyses only.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

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

Cost 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 State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (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.

Significant effect on housing costs: None.

Affect on small businesses: The regulations and proposed amendments have no affect on small businesses because they relate only to internal school district student testing practices, and do not relate to small business practices, nor to interactions between school districts and small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board 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 substance of the proposed regulations should be directed to:

Sue Bennett
California Department of Education
Education Support Systems Division
660 J Street, Suite 400
Sacramento, CA 95814
E-mail: sbennett@cde.ca.gov
Telephone: (916) 322-5015

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Adoption Coordinator, or to the backup contact person, Najia Rosales, Analyst, at (916) 319-0584.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for

copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/regulations>.

Title 5. EDUCATION

Division 1. State Department of Education

Chapter 2. Pupils

Subchapter 4. Statewide Testing of Pupils and Evaluation Proceedings

Add Article 5 and Sections 1068 – 1074 to read:

Article 5. Alternative Schools Accountability Model Pre-Post Assessments

§ 1068. Application of this Article.

This article shall only apply to schools that are registered in the Alternative Schools Accountability Model (ASAM) and have chosen to adopt a pre-post assessment instrument as an indicator for use in the ASAM.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

§ 1069. Definitions.

For the purposes of this article, the following definitions apply:

- (a) “Pre-post assessment instrument” is an assessment instrument available for adoption as an indicator of achievement by schools in the ASAM.
- (b) “Pre-test” is an initial assessment given no later than 20 instructional days following the pupil’s first day of enrollment in the ASAM school.
- (c) “Post-test” is an assessment given after a minimum of 30 days of instruction following the administration of the pre-test.
- (d) “ASAM test site coordinator” means the ASAM school principal or other district employee designated by the district superintendent to oversee the acquisition, and the secure distribution, administration, scoring, and reporting of a pre-post assessment instrument at the school site.
- (e) “Test Administrator” means a certificated employee or paraprofessional employee of a school district trained in the administration of a pre-post assessment instrument by the ASAM test site coordinator.
- (f) “Long-term student” is a student who has been continuously enrolled in the ASAM school for a minimum of 90 consecutive school days during the school year.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code

§ 1070. Administration of Pre-Post Assessment Instrument.

- (a) In order to yield reliable and valid results, each pre-post assessment instrument shall be administered in accordance with directions provided in the publisher’s assessment administration manual.
- (b) The school’s ASAM test site coordinator shall oversee the administration of all pre-post assessment instruments to ensure adherence to the directions provided in the publisher’s assessment administration manual.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

§ 1071. Test Administrator Eligibility.

Any certificated employee of a school district trained in the administration of the pre-post assessment instrument may administer the assessment. Trained paraprofessional employees of the district may administer the pre-post assessment instrument under the direct supervision of a trained certificated employee.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

§ 1072. Security and Storage Requirements.

(a) To ensure security of the pre-post assessment instruments, all ASAM assessment test site coordinators (coordinators) shall sign the ASAM Pre-Post Assessment Security Agreement as set forth in subdivision (b).

(b) The ASAM Pre-Post Assessment Security Agreement shall be as follows:

ASAM PRE-POST ASSESSMENT SECURITY AGREEMENT

The coordinator acknowledges by his or her signature on this form that the ASAM pre-post assessment instruments are secure assessments and agrees to each of the following conditions to ensure test security:

(1) The coordinator will take all necessary precautions to safeguard all pre-post assessment instruments and assessment materials by limiting access to persons within the school district with a responsible, professional interest in the assessment instruments' security.

(2) The coordinator will keep on file the names of persons having access to pre-post assessment instruments and assessment materials. All persons having access to the materials shall be required by the coordinator to sign the ASAM Pre-Post Assessment Security Affidavit that will be kept on file in the school and school district office.

(3) The coordinator will keep the pre-post assessment instruments and assessment materials in a secure, locked location at the school site, limiting access to only those persons responsible for assessment security, except on actual administration dates.

(4) The coordinator will be responsible for ensuring the security of all scoring activities whether done at the school site, the district office, or by an external contractor.

By signing my name to this document, I am assuring that I and anyone having access to the pre-post assessment instruments will sign a security affidavit.

By: _____

Title: _____

School: _____

School District: _____

Date: _____

(c) All persons having access to the ASAM pre-post assessment instruments, including but not limited to the coordinator and test administrators, shall acknowledge the limited purpose of their access to the assessment instruments by signing the ASAM Pre-Post Assessment Security Affidavit set forth in subdivision (d).

(d) The ASAM Pre-Post Test Security Affidavit shall be as follows:

ASAM PRE-POST ASSESSMENT SECURITY AFFIDAVIT

I acknowledge that I will have access to the ASAM pre-post assessment instruments for the purpose of administering or scoring the assessments. I understand that these materials are highly secure, and it is my professional responsibility to protect their security as follows:

(1) I will not divulge the contents of the pre-post assessment instruments to any other person.

(2) I will not copy any part of the pre-post assessment instruments or assessment materials.

(3) I will keep the pre-post assessment instruments secure until the assessments are actually distributed to pupils or, in the case of computer-administered assessments, the pupils actually log on to begin the assessments.

(4) I will limit pupils' access to the pre-post assessment instruments and assessment materials to the actual

testing periods.

(5) I will not permit pupils to remove pre-post assessment instruments and assessment materials from the room where testing takes place.

(6) I will not disclose, or allow to be disclosed, the contents of, or the scoring keys to, the pre-post assessment instruments.

(7) I will return all pre-post assessment instruments and assessment materials to the designated coordinator upon completion of the assessment administration.

(8) I will not interfere with the independent work of any pupil taking a pre-post assessment and I will not compromise the security of the assessment instrument by means including, but not limited to:

(A) Providing pupils with access to pre-post assessment questions prior to administration of the assessment instrument.

(B) Copying, reproducing, transmitting, distributing or using in any manner inconsistent with test security all or any portion of any secure pre-post assessment instrument.

(C) Coaching pupils during administration of the assessment instrument or altering or interfering with the pupils' responses in any way.

(D) Making answer keys available to pupils.

(E) Failing to follow security rules for distribution and return of secure pre-post assessment instruments as directed, or failing to account for all secure pre-post assessment instruments and assessment materials before, during, and after their administration.

(F) Failing to follow administration directions specified in the publisher's assessment administration manual.

(G) Participating in, directing, aiding, counseling, assisting in, or encouraging any of the acts prohibited in this section.

Signed: _____

Print Name: _____

Position: _____

School: _____

School District: _____

Date: _____

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

§ 1073. Scoring.

All pre-post assessment instruments scored at the school site or district office shall be scored under the supervision of the coordinator. The coordinator will monitor the contract for any scoring activities carried out by an external contractor. All scoring shall be done following the instructions and using the answer keys provided by the publisher of the specific pre-post assessment instrument.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

§ 1074. Reporting.

School districts that have adopted a pre-post assessment instrument as an indicator of achievement for an ASAM school shall submit the following information for each long-term student enrolled in the school. The information shall be submitted in a format provided by the California Department of Education.

- (a) Local student Identification number (as available).
- (b) Test name and form.
- (c) Dates pre-post assessment instruments were administered.
- (d) Scores on each assessment instrument.
- (e) Student demographics:
 - (1) Date of birth.
 - (2) Grade level.
 - (3) Gender.
 - (4) Language fluency and home language.
 - (5) Special program participation.
 - (6) Testing adaptations or accommodations.
 - (7) Amount of time in school district and in California public schools.
 - (8) Ethnicity.
 - (9) Parent education level.
 - (10) Handicapping condition or disability.

This information is for the purpose of aggregate analyses only.

Districts shall submit the ASAM pre-post assessment instrument results to CDE or its designee by July 31 each year.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

Initial Statement of Reasons Alternative Schools Accountability Model (ASAM)

Sections 1068, 1069, 1070, 1071, 1072, 1073, and 1074.

SPECIFIC PURPOSE OF THE REGULATION.

The proposed regulations will establish the requirements for administering, scoring, and reporting locally adopted pre-post assessments for use as indicators of achievement by schools registered in the Alternative Schools Accountability Model (ASAM).

NECESSITY/RATIONALE

The Public Schools Accountability Act (PSAA) of 1999, SB 1X, Chapter 3, Statutes of 1999 [Article 2, Section 52052 (g)] requires that all schools be held accountable through the state's accountability system. The Superintendent of Public Instruction, with the approval of the State Board of Education (State Board), developed the ASAM to provide accountability for alternative schools defined in law including continuation schools, community day schools, county juvenile court schools, county community schools, California Youth Authority schools, and opportunity schools; as well as for other alternative schools serving high-risk students.

More than 1,100 alternative schools currently participate in the ASAM. These schools enroll high-risk students at the elementary, middle, and high school levels who typically function far below grade-level standards and show extremely high levels of mobility, moving in and out of programs and schools on a routine basis. The ASAM employs multiple indicators to evaluate school performance. The indicator data are based on students enrolled for 90 days, the minimum period required for consistent delivery of instruction, in order to reflect the students' progress during the time they are enrolled in the school. Pre-post assessment instruments are extremely valuable indicators of academic growth for these students because they can be sensitive to gains during the students' typically short enrollment periods.

The State Board has approved assessment instruments for use as locally adopted indicators of achievement in the ASAM and has required that regulations be adopted to assure that the pre-post assessments are administered, scored, and reported in a consistent, reliable, valid, and fair manner statewide.

Section 1068

This section specifies that Article 5 applies only to schools that are registered in the Alternative Schools Accountability Model (ASAM) and have chosen to adopt a pre-post assessment instrument as an indicator for use in the ASAM.

Section 1069

This section defines the meaning of "Pre-post assessment instrument," "Pre-test," "Post-test," "ASAM test site coordinator," "Test Administrator," and "Long-term student," as they are used in Article 5.

Section 1070

This section requires the ASAM test site coordinator to oversee the administration of all pre-post assessment instruments and to ensure that the instructions provided in the publisher's assessment administration manual are followed.

Section 1071

This section states that any certificated employee of a school district trained in the administration of the pre-post assessment instruments, or a trained paraprofessional employee of the school district under the direct supervision of a trained certificated employee, may administer the pre-post assessment instrument.

Section 1072

This section is designed to ensure the security of the pre-post assessment instruments. It requires ASAM test site coordinators to sign the ASAM Pre-Post Assessment Security Agreement acknowledging that the pre-post assessment instruments are secure, and agreeing to safeguard them in specified ways. This section also requires all persons having access to pre-post assessment instruments to sign the ASAM Pre-Post Assessment Security Affidavit. The affidavit requires signatories to acknowledge that they will have access to the ASAM pre-post assessment instruments, that they understand that the materials are highly secure, and that it is their professional responsibility to protect the security of the assessment instruments in specified ways.

Section 1073

This section requires the ASAM site coordinator to supervise all scoring of pre-post assessment instruments that is done at the school site or district office and to monitor the contract for any scoring activities carried out by an external contractor. This section also specifies that all scoring must be done following the instructions and using the answer keys provided by the test publisher.

Section 1074

This section requires school districts that have adopted a pre-post assessment instrument to collect specified information for each long-term student enrolled in the school and submit the results to CDE or its designee by July 31 each year for purposes of aggregate analyses only.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The State Board did not rely upon any other technical, theoretical, or empirical studies, reports or documents in proposing the amendment of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the State Board.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The State Board has not identified any alternatives that would lessen any adverse impact on small business.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

The proposed regulations would not have a significant adverse economic impact on any business because they relate only to internal school district student testing practices, and do not relate to small business practices, nor to interactions between school districts and small businesses.

Public Comments on the Proposed Alternative Schools, Accountability Model Pre-Post Assessment Regulations

Two written comments have been received as of August 20, 2003.

Section 1071. Test Administrator Eligibility

Comment 1:

The writer expresses concern that the proposed regulations require paraprofessionals administering a pre-post assessment instrument to be employees of the district. He notes that charter school regulations permit paraprofessionals to be employees of the nonprofit agency providing the office administration support.

Response:

The proposed regulations do not make special provisions for charter schools.

Comment 2:

The writer requests clarification of the requirement that a paraprofessional administering a pre-post test must do so “under the direct supervision” of a certificated employee. He asks whether the certificated employee must be physically present while the assessment process takes place or whether the certificated employee may take responsibility for the administration at a time when he or she is teaching in an adjoining room.

Response 2:

The proposed regulations do not currently define “direct supervision.”

Section 1073. Scoring

Comment:

The writer takes the position that collecting and reporting test and demographic data for aggregate analysis will not serve a purpose which can justify the expense and effort required to gather the information. He notes that schools in the Alternative Schools Accountability Model (ASAM) will use several different pre-post tests and that demographic data are also gathered under the Standardized Testing and Reporting (STAR) program.

Response:

(Note that the writer’s comment applies to Section 1074. Reporting, rather than Section 1073. Scoring.)

The pre-post assessment measures of achievement have been added to the indicators available to schools participating in the ASAM to provide measures that are sensitive to changes in performance in the highly mobile populations they serve. Districts and county offices of education may adopt a pre-post assessment measure as an indicator of achievement for schools in the ASAM if they choose to do so. Student data must be aggregated for each test to document performance at the school level. The proposed regulations would require schools that choose to administer a pre-post test to collect and report the standard elements of demographic data that are collected for other state tests.

State of California

Department of Education

Last Minute Memorandum

To: STATE BOARD MEMBERS

Date: September 9, 2003

From: Susan M. Bennett, Administrator, Educational Options Office

Re: ITEM #18

Subject PERMANENT REGULATIONS FOR ADMINISTERING, SCORING, AND REPORTING LOCALLY ADOPTED TESTS OF ACHIEVEMENT FOR USE AS INDICATORS IN THE ALTERNATIVE SCHOOLS ACCOUNTABILITY MODEL (ASAM).

This memorandum accompanies Attachment 4, *Public Comments on the Proposed Alternative Schools Accountability Model Pre-Post Assessment Regulations*. This attachment includes written comments received prior to the scheduled Public Hearing held on the morning of September 9, 2003. No Comments were received at the public hearing.

Public Comments on the Proposed Alternative Schools Accountability
Model Pre-Post Assessment Regulations of
*Written Comments Received and Initial Responses to Written Comments*¹

As of September 9, 2003, two written comments regarding the proposed pre-post assessment regulations were received by the California Department of Education in accordance with the Administrative Procedure Act. No additional comments were received at the public hearing on the morning of September 9, 2003.

No Section Specified

Comment 1:

The writer is Sherry Kropp, Principal of Laurel Continuation High School in the Los Alamitos Unified School District. Ms. Kropp expresses the opinion that the (ASAM) pre-post tests are not necessary because STAR results are required for schools in the ASAM.

Response 1:

The Public School Accountability Act (PSAA) of 1999, Chapter 3, Statutes of 1999 [Article 2, Section 52052 (h)] required that an alternative accountability system should be established for the schools that participate in the Alternative Schools Accountability Model (ASAM). These schools are also required to administer and report California's State Testing and Reporting (STAR) test data which represent the "base" indicator in the multiple indicator ASAM system. The base indicator is currently reported as an Academic Performance Index (API) for all ASAM schools with sufficient valid test results for reporting purposes.

The pre-post assessment measures have been added to the list of ASAM performance indicators specifically at the request of the district and county offices of education that operate ASAM schools. The pre-post assessments will augment STAR data by providing measures that are more sensitive to changes in the performance of the highly mobile populations ASAM schools serve. The pre-post assessment results will document the performance of students who were continuously enrolled for at least 90 consecutive school days in an ASAM school, but have left the school prior to the time of STAR testing. The pre-post assessment indicators are only three of fourteen indicators available to schools participating in the ASAM. District and county offices of education may choose to adopt a pre-post assessment as an indicator of achievement for their ASAM schools, but are not required to do so.

Section 1071. Test Administrator Eligibility

Comment 2a:

The writer is Cesar Calderon, Operations Officer of Soledad Enrichment Action Charter School, a Community Day School operated by the Los Angeles County Office of Education. Mr.

¹ Subject to modification prior to the submission of the Final Statement of Reasons to the Office of Administrative Law.

Calderon expresses concern that the proposed regulations require paraprofessionals administering a pre-post assessment instrument to be employees of the district. He notes that charter school regulations permit paraprofessionals to be employees of the nonprofit agency providing the office administration support.

Response 2a:

This concern appears to apply only to the limited number of charter schools that meet the entry requirements for participating in the ASAM. We are not aware of other schools in the ASAM in which paraprofessionals employed by a nonprofit agency rather than the school district would be needed to administer the assessment instruments. Local administrators and representatives of the professional associations serving other types of schools in the ASAM have not raised this question. Expanding the regulations to permit personnel who are not district employees to administer the pre-post assessments would raise concerns about the school having sufficient oversight and control over the testing process.

Comment 2b:

Mr. Calderon requests clarification of the requirement that a paraprofessional administering a pre-post test must do so “under the direct supervision” of a certificated employee. He asks whether the certificated employee must be physically present while the assessment process takes place or whether the certificated employee may take responsibility for the administration at a time when he or she teaching in an adjoining room.

Response 2b:

The proposed regulations require that any paraprofessional employee administering a pre-post assessment has been trained to do so by the ASAM test site coordinator [Section 1069, subdivision (e)] and that he or she must sign the ASAM Pre-Post Assessment Security Affidavit and abide by its provisions [Section 1072, subdivision (d)]. We assume that a certificated employee directly supervising the paraprofessional while administering a pre-post assessment will be available to respond to questions that may arise during the test administration process.

CALIFORNIA STATE BOARD OF EDUCATION

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REPORT ON PUBLIC HEARING CONDUCTED BY STAFF

DATE: September 9, 2003
TO: Members, State Board of Education
FROM: Greg Geeting, Assistant Executive Director

SUBJECT: Alternative Schools Accountability Model (ASAM) – Permanent Title 5 Regulations

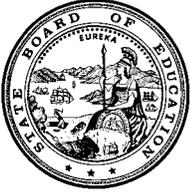
Background

At the June 2003 meeting, the State Board initiated the permanent rulemaking process regarding the Alternative Schools Accountability Model (ASAM). The State Board directed that the public hearing for this rulemaking process be conducted by staff in accordance with subdivision (b) of Section 18460 of Title 5 of the California Code of Regulations.

Report on Public Hearing

Consistent with the requirements of the Administrative Procedure Act, the public hearing regarding the proposed regulations was scheduled for Tuesday, September 9, 2003, at the California Department of Education, 1430 N Street, Room 6303, Sacramento, California, beginning at 9:00 a.m. An audiotape of the public hearing was made, and Maryanna Rickner will provide a copy of the audiotape to any State Board member so desiring.

The public hearing was called to order at 9:01 a.m. on the prescribed date and at the prescribed location. No one present desired to comment on the proposed regulations. The public hearing was recessed for one-half hour in the event that a potential presenter might have been delayed. The public hearing was reconvened at 9:33 a.m. No one wishing to present comments had arrived. The public hearing was adjourned at 9:33 a.m.



SEPTEMBER 2003 AGENDA

SUBJECT:

Model Charter School Application – Consider for approval.

<input checked="" type="checkbox"/>	ACTION
<input checked="" type="checkbox"/>	INFORMATION
<input type="checkbox"/>	PUBLIC HEARING

RECOMMENDATION:

Consider for approval the Model Charter School Application with the understanding that (1) the document is subject to technical amendment with the approval of the Executive Director of the State Board of Education in consultation with the charter school liaisons, including any recommendations for technical amendment that may emerge from the meeting of the Advisory Commission on Charter Schools scheduled for September 23, 2003, and (2) the document once amended will be posted on the CDE Web site.

Summary of Previous State Board of Education Discussion and Action.

At the July 2003 meeting, the State Board had a presentation from Nelson Smith, in which he summarized his report titled, "Catching the Wave: Lessons from California's Charter Schools" (Progressive Policy Institute, June 2003). In his presentation, Mr. Smith noted that creation of a guidance document of some sort is one common characteristic of charter authorizing entities across the nation that are generally recognized as more successful. He suggested consideration of such a document in California.

A draft of a Model Charter School Application was presented to the Advisory Commission on Charter Schools at its July meeting (which was after the State Board's July meeting). The Advisory Commission approved the concept, understanding that the draft was preliminary, and expressed interest in reviewing a final draft at its September meeting.

Summary of Key Issue(s).

The California Constitution is explicit in its requirement to reimburse local agencies of government for state-mandated programs or higher levels of service. Therefore, the Model Charter School Application is explicitly exemplary, not mandatory. As the document itself explains, its purpose is (1) to ensure that charter petitions cover all of the minimum elements requires by law in a systematic way, (2) to expedite the process of appeal, by keeping formatting generally the same for ease of review at the district, county, and State Board levels, and (3) to provide a measure of uniformity in evaluation among charter authorizers and within the process of appeal.

The Model Charter School Application does not create any new requirements. Rather, it provides useful advice and guidance to charter authorizers and charter developers. The intent is for the Model Charter School Application to be placed on the CDE Web site for use by local education agencies and individuals interested in preparing charters, nothing more. Its use is not required.

Fiscal Analysis (as appropriate).

N/A.

Background Information attached to this Agenda Item.[Model Charter School Application, August 2003](#)

CALIFORNIA STATE BOARD OF EDUCATION MODEL CHARTER SCHOOL APPLICATION

THE MODEL CHARTER SCHOOL APPLICATION IS EXEMPLARY, NOT MANDATORY. HOWEVER, ITS USE IS STRONGLY ENCOURAGED FOR THREE REASONS.

- TO ENSURE THAT CHARTER PETITIONS COVER ALL OF THE MINIMUM ELEMENTS REQUIRED BY LAW IN A SYSTEMATIC WAY.
- TO EXPEDITE THE PROCESS OF APPEAL, BY KEEPING FORMATTING GENERALLY THE SAME FOR THE BENEFIT OF APPELLATE BODIES.
- TO PROVIDE FOR A MEASURE OF UNIFORMITY IN THE EVALUATION OF CHARTER PETITIONS FROM CHARTER AUTHORIZER TO CHARTER AUTHORIZER AND WITHIN THE PROCESS OF APPEAL.

PETITIONS TO ESTABLISH STATE CHARTER SCHOOLS, WHICH ARE SUBMITTED DIRECTLY TO THE STATE BOARD OF EDUCATION, ARE EXPECTED TO BE PRESENTED AS DESCRIBED IN THE MODEL CHARTER SCHOOL APPLICATION.

[CONTACT INFORMATION: TO BE DETERMINED]

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Letter from State Board President

To the Applicant:

Since passage of the Charter Schools Act of 1992, California has become a leader in the national movement for accountable, autonomous public schools. Charter schools are now a viable educational alternative for many students statewide, and some of these charters are among the State's top academic performers.

The California State Board of Education has worked assiduously with the Governor and the State Legislature to strengthen quality and academic accountability in the charter sector. With this universal charter application package, we are taking another important step. Our objective is to provide a template through which charter petitioners present their ideas in a systematic, comprehensive way that reflects the requirements of statute and regulation. Our vision is that this application would be the substance of a charter that a charter authorizer would approve or deny. If approved, we would envision the charter being supplemented, as necessary, by memoranda of understanding (or comparable documents) developed cooperatively by the petitioners and representatives of the charter authorizer. If denied (and if an appeal is possible), we would envision the same application being the document considered by the charter authorizer at the next level (modified only as technically necessary to reflect the different charter authorizer). With the degree of structure provided in this package, we believe that charters can become the type of focused, meaningful documents intended in state law, not documents that either lack essential detail or include unnecessary verbiage.

The universal charter application is not a mandate. It is offered, as stated above, with the intent of strengthening the processes of charter development and consideration. Where, in the sections that follow, "evaluation criteria" are included, they are exemplary, offered as suggestions to help ensure rigor and consistency statewide.

There are three routes to school chartering in California.

1. School district governing board. Most typically, a charter petition is submitted to a local school district governing board for the operation of a single school. If denied, the local governing board's decision may be appealed to the county board of education (first level) and, if also denied by the county board, to the State Board of Education (second level).

2. County board of education. Two types of charter petitions may be submitted directly to a county board of education. One type of petition is for a charter school to serve pupils for whom the county office of education would otherwise be responsible. If denied, a county board's decision on a petition to establish this type of school may be appealed to the State Board of Education. The second type of petition is for a charter school intended to serve on a countywide basis a population of students that cannot be served as well through a petition presented to a school district. If denied, a county board's decision on a petition to establish this type of school may not be appealed.

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3. State Board of Education. A petition to establish a state charter school (sometimes referred to as a “statewide charter school”) may be submitted directly to the State Board of Education. A state charter school must offer “instructional services of statewide benefit” that cannot be provided by a school operating in only one school district, or only in one county. A decision to deny such a petition may not be appealed.

State law also provides for districtwide charters (sometimes referred to “all-charter districts”), in which all of the schools in a district are converted to charter schools. Petitions to establish districtwide charters are approved jointly by the State Superintendent of Public Instruction and the State Board of Education. They are treated differently from petitions to establish individual charter schools in that they are reviewed directly (in the first instance) by staff of the California Department of Education. Only a few districtwide charters have been proposed and approved. A principal complication with respect to districtwide charters is that they must comply with a provision of law that no student can be compelled to attend a charter school. Therefore, districtwide charters are only practical where district boundaries (and the capacity of neighboring districts to accept additional students) are such that students desiring non-charter schools can be reasonably accommodated. For more information about becoming a districtwide charter, please contact the Charter Schools Office of the California Department of Education.

In order to promote thoughtful consideration of charter petitions, we recommend that original applications be submitted no later than August 1 of the year prior to a school’s proposed opening. This will provide ample time for all types of petitions to be considered, for a complete round of appeals to be completed (if necessary), for any supplemental memoranda of understanding (or like documents) to be created (if necessary), and for charter operators to prepare for a successful launch.

Nothing is more important in creating high quality charter schools than an application and approval process that asks the right questions, enlists talented and experienced reviewers, and identifies applicants strong enough to surmount the rigors of opening and running a new school. The State Board of Education hopes that this Model Charter School Application will give potential applicants a clear picture of what is expected of them, and will provide charter authorizers with plentiful information about the capacities of aspiring charter operators.

Together with the parents (guardians), teachers, and entrepreneurs who will petition to operate charter schools in the coming years, the State Board of Education looks forward to creating a diverse group of new schools united by common bonds of quality and accountability.

*Reed Hastings, President
California State Board of Education*

Key Questions and Answers

What is a "charter school"?

A charter school is a public school and may provide instruction in any of grades kindergarten through 12. A charter school is usually created or organized by a group of teachers, parents and community leaders or a community-based organization, and is usually authorized by an existing local public school board or county board of education. Specific goals and operating procedures for the charter school are detailed in an agreement (or "charter") between the authorizing board and charter organizers.

What is the purpose of a "charter school"?

The purpose of a charter school is to: (1) improve pupil learning; (2) increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils identified as academically low achieving; (3) encourage the use of different and innovative teaching methods; (4) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; (5) provide parents and students with expanded educational opportunities within the public school system without the constraints of traditional rules and structure; (6) provide schools a way to shift from a rule-based to a performance-based system of accountability; and (7) provide competition within the public school system to stimulate improvements in all public schools. [Ref. Education Code §47601]

Who is eligible to write a charter?

Anyone may write a charter. However, for new charter schools (not conversions of existing public schools), charter developers must obtain the signatures of either 50 percent of the teachers meaningfully interested in teaching at the school, or 50 percent of the parents of pupils expected to enroll at the school. For conversion schools, signatures of 50 percent of the teachers at the school to be converted are required. The petition must contain a prominent statement that a signature means that the person signing is meaningfully interested in teaching in, or in having their child attend the school. The proposed charter must be attached to the petition. [Ref. Education Code §47605(a)]

What are the restrictions on the establishment of a charter school?

There are a few restrictions on the establishment of a charter school. With a few exceptions, a new charter school may only be located in the district that approves it. The law expressly prohibits the conversion of private schools to public charter schools. A charter school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. A charter school may not discriminate against any pupil and may not charge tuition. In addition, the school's charter must include a description of the school's means for achieving a racial and ethnic balance among its pupils that is reflective of the general population residing in the district. Pupils may not be required to attend a charter school, nor may teachers be compelled to teach there. [Ref. Education Code §§47602(b), 47605(a), (b), (d), (e), and (f)]

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Can a private school convert to a charter school?

No. The law expressly prohibits private schools from converting to charter schools. [Ref. Education Code §47602(b)]

What other restrictions are there on the establishment of a charter school?

There are several other restrictions on the establishment of a charter school. With a few exceptions, a new charter school may only be located in the district that approves it. A charter school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. A charter school may not discriminate against any pupil and may not charge tuition. In addition, the school's charter must include a description of the school's means for achieving a racial and ethnic balance among its pupils that is reflective of the general population residing in the district. Pupils may not be required to attend a charter school, nor may teachers be compelled to teach there. [Ref. Education Code §§47605(a), (b), (d), (e), and (f)]

Is there a "cap" on the number of charter schools?

Yes. The cap is currently set at 750 (for the 2003-04 fiscal year), and will increase by 100 each July 1. During the 2003-04 school year, it is anticipated that there will be approximately 485 charter schools operating in California. [Ref. Education Code §47602]

Who may approve a charter school petition?

Under California law, it is the local school district governing board that serves as the primary chartering authority. With a few exceptions, a school district may only approve a new charter that will operate within the district boundaries. Also, a district may not approve a new charter school that will serve grade levels not served by the district unless the charter will serve all grades offered by the district.

A petitioner may seek approval of a charter from a county board of education, if the pupils to be served are pupils that would normally be provided direct education and related services by the county office of education, the petition has been previously denied by a local school district governing board within the county, or if the charter provides county-wide services that cannot be provided by a district-approved charter school.

Petitioners may request the State Board of Education to review a charter petition if the petition has been previously denied by a local school district governing board and a county board of education, or if the charter school will provide services of a statewide benefit that cannot be met through a district-approved or county-approved charter. [Ref. Education Code §47605(a)(6), (b) and (j), 46705.6, and 47605.8]

How should services be coordinated when there are multiple sites of a single charter in varying locales?

The number of sites or locales of a charter school is irrelevant to the question of responsibility for provision of services. The California Department of Education holds

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the charter-authorizing local education agency (LEA) responsible for ensuring the provision of special education and related services to eligible students pursuant to each student's individualized education program, and for ensuring that the charter school (including all satellite locations) complies with special education law. How these services are provided, and how they are funded, may be (but are not required to be) negotiated locally between the charter school and the charter-authorizing LEA. For example, services may be provided via contract with another district, or a non-public school or agency. In cases where the charter school is operating multiple sites located outside the geographic area of the charter-authorizing LEA, contracts with local districts and/or other service providers may be a particularly useful tool in facilitating the provision of appropriate services in remote locations. *[Reference: Education Code Section 47646(a)]*

What is the timeline for developing and approving a charter petition?

Charter developers may begin developing their charter petition at any time. The law specifies that a local governing board must hold a public hearing to consider the proposed charter within 30 days from receipt of the completed petition, and, within 60 days from receipt of the petition, must either grant or deny the charter. This timeline may be extended by 30 days if both parties agree to the extension. Once approved by a local board, a charter petition must be forwarded to the State Board of Education for assignment of a charter number. A charter school in its first year of operation must commence instruction between July 1 and September 30. *[Ref. Education Code §47605(b)]*

Additional time is required in the event a charter is denied by a school district governing board and subsequently appealed to a county board of education and, perhaps, to the State Board of Education. In order to provide adequate time for a complete cycle of appeals to be conducted (if necessary), this Model Charter School Application recommends that charter petitions be submitted by August 1 of the year preceding the year in which the petitioners seek to have school in operation.

For how long is a charter granted, and is it renewable?

A charter may be initially granted for up to five years. Charters may be renewed for an unspecified number of five-year periods. Charters may not be renewed for less than five-year periods. *[Ref. Education Code §47607]*

What happens after the State Board of Education (SBE) numbers my school?

After the SBE acts to number a charter, the California Department of Education (CDE) will send a letter notifying the school of the action, and providing information on next steps, including forms for the charter school to complete. The school should request a county-district-school (CDS) code from the CDE using the form provided. Additional information about requesting a CDS code is available on the CDE Web site at <http://www.cde.ca.gov/cdscodes/>. The school will also need to complete a charter school funding survey by May 31 prior to the school's opening. The funding survey is

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mailed to each charter school in the spring. The most recent funding survey is available on the CDE Web site at:

<http://www.cde.ca.gov/charter/funding/>

If the charter school is going to be direct-funded, the school must also submit the provided payee record data form (std. 204).

The CDS code request, the payee data record form and the annual funding survey must be completed and returned to the CDE before any operational funding will be provided to the charter school.

Answers to other “Frequently Asked Questions” about charter schools, including the issues of Start-up, Governance and Charter Oversight, Special Education, Facilities, and Funding and Apportionment, can be found at <http://www.cde.ca.gov/charter/qanda/>

Application Format

The application guidelines below allow charter petitioners to address each of the factors defined by law upon which a charter proposal may be evaluated. While the guidelines generally follow the sequence found in the Charter Schools Act, for the sake of clarity some factors are grouped into broader categories such as “Human Resources.” Following the format provided in these guidelines enables the objective review of petitions. Petitioners are encouraged to:

- Include a Table of Contents that lists page numbers for each section of the application
- Follow the same format and order as outlined in these guidelines
- Include the proposed charter and signatures
- Limit the overall length of the application to ___ pages, with no more than X pages for Attachments (See page X for more detail on possible attachments.)
- Submit ___ copies of the application in a bound format
- Include tabs to separate each of the sections of the Application

The narrative of the application should be limited to a discussion of each of the evaluation criteria presented in the guidelines. Additional information that may support the information presented in the narrative and help the charter authorizer to assess the proposed charter school should be included in the Attachments. Examples of Attachments include curriculum samples; content and performance standards (to the extent different from state content and performance standards); resumes; letters of support; program descriptions; architectural drawings/floor plans of potential school sites; financial statements; management agreements; bylaws; Articles of Incorporation; drafts of Parent, Student, or Staff handbooks; samples of student work (if the petition is to establish a new charter school than is similar to an existing charter school); and organizational charts.

The purpose of the application is to ensure that a charter petition includes all necessary detail, but avoids unnecessary elaboration. It is anticipated that, if approved, a charter will be supplemented with memoranda of understanding (or comparable documents), as needed. A charter needs to be the type of focused, meaningful document intended in state law.

Application Guidelines

Charter authorizers are fundamentally concerned that charter schools be held responsible for meeting the following expectations:

- (1) *provision of a sound educational program for all of the school's students;*
- (2) *faithful implementation of the provisions of the charter;*
- (3) *compliance with all requirements of applicable federal, state, and local laws;*
and
- (4) *prudent operation of the charter school in all respects, including governance, educational program, faculty and staff, facilities, business management and support services, and relationships with students and families.*

NARRATIVE: RESPONSES TO ITEMS I THROUGH IX ON THE FOLLOWING PAGES SHOULD BE LIMITED TO [XX] PAGES TOTAL.

I. FOUNDING GROUP

Describe the founding group for the proposed charter school, providing evidence that the applicant(s) possess(es) the necessary background in the following areas critical to the charter school's success and/or that the founders have a plan to secure the services of individuals who have the necessary background in these areas:

- Curriculum, instruction and assessment;
- Finance, *facilities*, and business management; and
- Organization, governance, and administration

[Ref. Criteria for Review and Approval of Charter School Petitions; California Code of Regulations, Title 5, §11967.5.1(c)(4)]

Explain the circumstances that brought the founding group together to form this charter school. Include resumes of the individuals and names of any organizations or agencies that are partners in planning and establishing the school, along with a description of the role they have played and any resources contributed by them. Note whether any member of the founding group is a proposed board member, school leader, or other "key" staff of the charter school. If the petitioner is an organization that manages a network of charter schools, provide a statement of the background and capacities of the organization in the above-mentioned areas.

Evaluation Criteria:

Substantial evidence is provided that the founding group:

- *Demonstrates the capacity to establish and sustain an excellent school;*
- *Will manage public funds effectively and responsibly, or will secure necessary staff expertise for this purpose; and*
- *Includes members who possess skill and experience in areas such as education, management, finance, and law, and/or will secure necessary staff expertise in these areas.*

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II. EDUCATIONAL PHILOSOPHY AND PROGRAM

MISSION – Provide a clear and concise mission statement that defines the purposes and nature of the charter school. *Describe here, as well as within other applicable elements of the application, how the charter will improve learning for the targeted population and increase learning opportunities for its students. This statement should be written for understanding by the charter authorizer and the general public.* [Ref. Criteria for Review; CCR-5, §11967.5.1(f)(1)(B)]

EDUCATIONAL PHILOSOPHY – Describe the educational program of the proposed charter school:

- Identify those whom the school is attempting to educate;
- Describe what it means to be an “educated person” in the 21st century; and
- Provide the applicant’s view of how learning best occurs.

The goals identified in the educational program must include the objective of enabling students to become self-motivated, competent, and lifelong learners. [Ref. California Education Code §47605 (b)(5)(A)(i)]

HIGH SCHOOL PROGRAMS – If the proposed school will serve high school students (any of grades nine through twelve), the petition must describe how the school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. [Ref. California Education Code §47605(b)(5)(A)(ii)]

STUDENTS TO BE SERVED – Identify the proposed charter school’s target student population, including, at a minimum, grade levels, approximate numbers of students, and specific educational interests, backgrounds, or challenges. [Ref. Criteria for Review; CCR-5, §11967.5.1(f)(1)(A)] As necessary, confirm that grade levels to be served by the charter school will coincide with the charter authorizer’s grade levels. [Ref. Education Code §47606(a)(6).]

CURRICULUM AND INSTRUCTIONAL DESIGN – Include 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. Describe the basic learning environment (e.g., site-based matriculation, independent study, technology-based education). Discuss how the chosen instructional approach will enable the school’s students to achieve the objectives specified in the charter and master the academic content standards in core curriculum areas as adopted by the State Board of Education pursuant to Education Code Section 60605. The discussion of instructional design should include, but not be limited to, curriculum, teaching methods, materials, and technology. [Ref. Criteria for Review; CCR-5, §11967.5.1(f)(1)(C-E)]

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At a minimum, applicants should provide a full curriculum for one course or grade level as an attachment. A full curriculum should be submitted to the charter authorizer prior to the opening of school.

PLAN FOR STUDENTS WHO ARE ACADEMICALLY LOW ACHIEVING¹ –

Indicate how the charter school will identify and respond to the needs of students who are not achieving at or above expected levels. [Ref. Criteria for Review; CCR-5, §11967.5.1(f)(1)(F)]

PLAN FOR STUDENTS WHO ARE ACADEMICALLY HIGH ACHIEVING –

Indicate how the charter school will identify and respond to the needs of students who are academically high achieving. [Ref. Criteria for Review; CCR-5, §11967.5.1(f)(1)(G)]

PLAN FOR ENGLISH LEARNERS – Indicate how the charter school will identify and respond to the needs of English learners. [Ref. Criteria for Review; CCR-5, §11967.5.1(f)(1)(G)]

PLAN FOR SPECIAL EDUCATION – Indicate how the charter school will identify and respond to the needs of students with disabilities. Fully describe the charter school’s special education plan, including, but not limited to, the following:

- The means by which the charter school will comply with the provisions of Education Code 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 legal responsibilities for special education students; and
- How the school intends to meet those obligations.

[Ref. Criteria for Review; CCR-5, §11967.5.1(f)(1)(G-H)]

Evaluation Criteria:

Substantial evidence is provided of an educational philosophy and program that:

- *Indicates the proposed charter school’s target student population, including, at a minimum, grade levels, approximate numbers of students, and specific educational interests, backgrounds, or challenges;*
- *Specifies a concise school mission that expresses clear priorities; includes specific, realistic objectives; and conveys the applicant’s sense of an “educated person”;*
- *Demonstrates alignment between mission and programs;*
- *Shows evidence that the school’s approach will lead to improved student performance;*
- *Is founded on an understanding of effective, research-based educational practices or, if innovative, presents a reasonable likelihood for success.*

¹ Preference shall be given to petitions that demonstrate the capability to provide comprehensive learning experiences to (students) identified by the petitioner/s as academically low-achieving pursuant to the standards established by the State Department of Education under Section 54032. [Ref. California Education Code §47605(h)]

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III. MEASURABLE STUDENT OUTCOMES AND OTHER USES OF DATA

MEASURABLE STUDENT OUTCOMES – Describe the clearly measurable student outcomes that will be used by the charter school. “*Student outcomes*,” for the purposes of this part, means the extent to which all students enrolled in the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school’s educational program. [Ref. California Education Code § 47605 (b)(5)(B)]

ACADEMIC PERFORMANCE INDEX – Where applicable, include a plan for attaining the school’s Academic Performance Index growth target. [Ref. Criteria for Review; CCR-5, § 11967.5.1(f)(2)(B)].

METHOD(S) OF ASSESSMENT – Describe the proposed method(s) by which student progress in meeting the desired student outcomes will be measured. [Ref. California Education Code §47605(b)(5)(C)] The school’s plan should describe a variety of assessment tools that are appropriate to the grade level, subject matter, skills, knowledge, and/or attitudes being assessed, including, at a minimum, tools that employ objective means of assessment that are frequent and sufficiently detailed enough to determine whether students are making satisfactory progress. Assessments should include annual results from the Statewide Testing and Reporting (STAR) program and any other statewide standards or student assessments applicable to students in non-charter public schools, including, but not limited to, the California High School Exit Examination, the California English Language Development Test, and the physical performance test. [Ref. Criteria for Review; CCR-5, §11967.5.1(f)(2)(A), §11967.5.1(f)(3)(A-B) and California Education Code §47605(c)(1)].

USE AND REPORTING OF DATA – Outline the plan for collecting, analyzing, and reporting data on student achievement to school staff, parents, and guardians. Also describe the plan for utilizing the data continuously to monitor and improve the charter school’s educational program. [Ref. Criteria for Review; CCR-5, §11967.5.1(f)(3)(C) and California Education Code §47605(c)(2)]

Evaluation Criteria:

Substantial evidence is provided of an assessment approach that:

- *Specifies skills, knowledge, and attitudes that reflect the school’s clearly measurable educational objectives.*
- *Can be assessed by objective means that are frequent and sufficiently detailed enough to determine whether students are making satisfactory progress.*
- *Meets the requirements of the assessment system prescribed by law for all California public schools;*
- *Features a clear and externally credible design that incorporates multiple measures of student outcomes, reported both in terms of absolute scores and year-to-year gains/losses;*
- *Will facilitate continuous improvement in the educational program.*

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IV. GOVERNANCE STRUCTURE

Describe the planned governance structure of the school, including the process to be followed by the school to ensure the involvement of parents and guardians in supporting the school’s effort on behalf of the school’s students. [Ref. California Education Code §47605(b)(5)(D)] and Ref. Criteria for Review; CCR-5, §11967.5.1(f)(4)]

Specifically illustrate how the school will be organized – and how that structure is designed to support student success. Describe respective roles of the governing body and administration, the domains for which each will be responsible, and how their relationship will be managed. In addition, provide details of how the charter school’s board will be developed, in terms of supplementing necessary skills and providing training in effective board practices.

Describe how the design of the governance structure reflects 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 and/or guardians; and (3) the educational program will be successful. If incorporated, evidence of the organization’s incorporation should be provided as an Attachment, as necessary. [Ref. Criteria for Review; CCR-5, §11967.5.1(f)(4)]

Evaluation Criteria:

Substantial evidence is provided of an effective governance structure and proposed practices that will:

- *Provide a strong vision and continuity of leadership;*
- *Include board members who are committed to the mission of the school and cognizant of their responsibilities;*
- *Demonstrate a track record of success in the private or public sector among the proposed members of the governing body;*
- *Clearly delineate the roles and responsibilities of the governing body and the staff.*

V. HUMAN RESOURCES

QUALIFICATIONS OF SCHOOL EMPLOYEES – Describe the standards that will be used in hiring teachers, administrators, and other school staff, including, but not limited to the general qualifications for the various categories of employees the school anticipates hiring and the desired professional backgrounds, depth of experience, and other qualities to be sought in their selection. [Ref. California Education Code §47605(b)(5)(E)] Show how those qualities will help the school implement its vision, and how they will satisfy the requirements for “highly qualified teachers” under the No Child Left Behind Act. The qualifications should be sufficient to ensure the health and safety of the school’s faculty, staff, and students. Identify positions that will be regarded as “key” in each category and specify the additional qualifications expected of individuals assigned to those positions. Include an assurance that all requirements for employment set forth in applicable provisions of law will be met, including, but not limited to credentials, as necessary. [Ref. Criteria for Review; CCR-5, §11967.5.1(f)(5)]

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COMPENSATION AND BENEFITS – Provide a brief explanation of how the school will structure employee compensation to attract candidates with the necessary skills and experience. Describe the manner by which staff members of the charter school will be covered by the State Teachers’ Retirement System, the Public Employees’ Retirement System, and/or federal social security; or how the school will create a system of its own to accommodate employees’ retirement funding. Include the specific positions to be covered under each system and the staff designated to ensure that appropriate arrangements for that coverage are made. [Ref. California Education Code §47605(b)(5)(K) and Criteria for Review; CCR-5, §11967.5.1(f)(11)]

EMPLOYEE REPRESENTATION – Provide information regarding the employee’s status in regard to the Educational Employee Relations Act (EERA), and a description of the charter school’s understanding of its responsibilities in the event employees are represented under the EERA. [Ref. Education Code §47605(b)(5)(O).]

RIGHTS OF SCHOOL DISTRICT EMPLOYEES – Provide, as applicable, 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. [Ref. California Education Code §47605(b)(5)(M) and Criteria for Review; CCR-5, §11967.5.1(f)(13)]

HEALTH AND SAFETY – Describe the procedures that the school will follow to ensure the health and safety of students and staff, including how the school will provide for proper immunization, as well as vision, hearing, and scoliosis screening for students; and the steps the school will take to ensure that criminal background checks and proof of an examination for tuberculosis are collected from all school personnel. [Ref. California Education Code §47605(b)(5)(F) and Criteria for Review; CCR-5, §11967.5.1(f)(6)]

DISPUTE RESOLUTION – Provide a description of the procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter. Describe how the costs of such a dispute resolution process, if needed, will be funded. [Ref. California Code §47605(b)(5)(N) and Criteria for Review; CCR-5, §11967.5.1(f)(14)]

Evaluation Criteria

Substantial evidence is provided of:

- *A plan for the recruitment and development of staff that is manageable and consistent with the school’s mission and educational program, as well as federal legislation;*
- *A clear understanding of staffing needs and requirements as they relate to the educational program and student population;*
- *Working conditions and compensation packages that will attract and retain high quality staff;*
- *A dispute resolution process that provides fair and prompt action, respects the due process rights of all parties, and operates in the spirit of the school’s mission.*

**VI. STUDENT ADMISSIONS, ATTENDANCE, AND SUSPENSION/
EXPULSION POLICIES**

STUDENT ADMISSION POLICIES AND PROCEDURES – Describe the policies and procedures the school will develop and implement for the admission and enrollment of students, including any proposed timetable or calendar and the school’s implementation of the random lottery process as required by law. Include assurance that the charter school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not charge tuition nor discriminate against any student based on ethnicity, national origin, gender, or disability. [Ref. California Education Code §47605(b)(5)(H), §47605(d) and Criteria for Review; CCR-5, §11967.5.1(f)(8)]

NON-DISCRIMINATION – Describe how the charter school will ensure a racial and ethnic balance among its students that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted. [Ref. California Education Code §47605(b)(5)(G) and Criteria for Review; CCR-5, §11967.5.1(f)(7)]

PUBLIC SCHOOL ATTENDANCE ALTERNATIVES – As applicable, describe the public school attendance alternatives for students in the district who choose not to attend the charter school. At a minimum, specify that the parent or guardian of each student enrolled in the charter school will be informed that the students have no right to admission in a particular school of any local education agency as a consequence of enrollment in the charter school, except to the extent that such a right is extended by the local education agency. [Ref. California Education Code §47605(b)(5)(L) and Criteria for Review; CCR-5, §11967.5.1(f)(12)]

SUSPENSION/EXPULSION PROCEDURES – Describe the procedures by which students can be suspended or expelled. [Ref. California Education Code §47605(b)(5)(J)] Include a preliminary list of the offenses for which students in the charter school must (where non-discretionary) and may (where discretionary) be suspended or expelled, respectively. Identify the procedure by which students can be suspended or expelled and the process by which parents/guardians and students will be informed about the reasons for any such actions and their due process rights. Explain how the charter school will take into account the rights of students with disabilities in regard to suspension and expulsion. Outline how policies and procedures regarding suspension and expulsion will be periodically reviewed and, when necessary, modified. [Ref. Criteria for Review; CCR-5, §11967.5.1(f)(10)]

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Evaluation Criteria

Substantial evidence is provided of:

- *A demonstration that admission policies at the proposed school will comply with applicable law;*
- *Assurance that the school has a viable plan for recruiting a student population reflective of the population in the surrounding community;*
- *A continuing plan for broad outreach and recruitment, including families traditionally less informed about education options;*
- *A student admissions plan that ensures adequate enrollment and full accessibility of the school to all eligible students;*
- *Evidence that petitioners have reviewed the offenses for which students may or must be suspended or expelled in non-charter public schools;*
- *Evidence that the proposed suspension/expulsion procedures provide adequately for the safety of students, staff, and visitors to the school; provide adequate due process for students; and serve the best interests of the school's students and their parents or guardians.*

VII. FINANCIAL PLANNING, REPORTING, AND ACCOUNTABILITY

BUDGETS – Provide a proposed first-year operational budget, including startup costs, that includes:

- Reasonable estimates of all anticipated revenues and expenditures necessary to operate the school – including special education; and
- Budget notes that clearly describe assumptions or revenue estimates, including, but not limited to the basis for average daily attendance estimates and staffing levels.

Also provide cash flow and financial projections for the first three years of operation; and plans for establishment of a reserve. It is recommended that charter schools maintain a reserve equivalent to that required by law for a school district of comparable size. [Ref. California Education Code §47605(g) and Criteria for Review; CCR-5, §11967.5.1(c)(3)(B)]

FINANCIAL REPORTING – Describe the systems and processes by which the school will keep track of financial data and compile information in the prescribed format needed for the annual statement of receipts and expenditures for the prior fiscal year that is due to the charter authorizer by September 15 of each year.

INSURANCE – Agree that the school will acquire and finance general liability, workers compensation, and other necessary insurance of the types and in the amounts required for an enterprise of similar purpose and circumstance, and provide evidence that the cost and availability of such insurance has been researched by the petitioners. [Ref. Criteria for Review; CCR-5, §11967.5.1(c)(3)(C)]

ADMINISTRATIVE SERVICES – Describe the structure for providing business/administrative services (including, at a minimum, personnel transactions, accounting, and payroll) that reflects an understanding of school business practices and expertise needed to carry out administrative services or a reasonable plan and timeline to develop and assemble such practices and expertise. For any contract services planned to

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serve the school, describe the criteria and procedures for the selection of contractors. [Ref. *Criteria for the Review*; CCR-5, §11967.5.1(c)(3)(A)]

FACILITIES – Describe the types and potential location of any facility/ies needed to operate the size and scope of educational program proposed in the charter. If (a) specific facility/ies has/have not been identified, provide evidence of the type and projected cost of the facility/ies that may be available in the location of the proposed charter school(s). Facilities plans must reflect reasonable costs for the acquisition or leasing of facilities to house the charter school. [Ref. *California Education Code §47605(g) and Criteria for Review*; CCR-5, §11967.5.1(c)(3)(D)]

TRANSPORTATION – Provide a description of the arrangements, if any, to be made for transportation of students, including expected level of need, proposed contracts, and adequate types and levels of insurance.

AUDITS – Describe the manner in which annual, independent financial audits, as required by law, will be completed by December 15 following the close of each fiscal year, and the anticipated timeline in which audit exceptions and deficiencies (if any) will be resolved to the satisfaction of the charter authorizer. [Ref. *California Education Code §47605(b)(5)(I) and (m) and Criteria for Review*; CCR-5, §11967.5.1(f)(9)] Additionally, describe who will be responsible for contracting and overseeing the independent audit, including a specification that the auditor will have experience in education finance. Outline, as applicable, the process for providing audit reports to the charter authorizer, county office of education (if not the charter authorizer), State Controller’s Office, and California Department of Education. Though not required by law, it is recommended that the audit include a review of average daily attendance reported by the charter school. [Ref. *Criteria for Review §11967.5.1(f)(9)*]

CLOSURE PROTOCOL – Provide a detailed description of the procedures to be used in the case of a decision by the charter authorizer or State Board of Education to revoke the school’s charter, a decision by the charter authorizer not to renew the charter, or a decision by the school voluntarily to close, including plans for a final audit of the school; disposition of net assets; communication of the closure to parents and staff; and maintenance and transfer of student records. [Ref. *California Education Code 47605(b)(5)(P)*]

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Evaluation Criteria

Substantial evidence is provided of:

- *Sound budget planning that supports the educational mission and operational plans of the proposed school and makes the most of limited funds (i.e., demonstrates that public funds will be used effectively and responsibly);*
- *Realistic revenue and expenditure projections over the first three years of operation, including realistic projections relative to cash flow and buffers in case of shortfalls;*
- *An understanding of the timing of the receipts of various revenues and their relative relationship to timing of expenditures;*
- *Adequacy of financial management systems and procedures;*
- *A plausible plan for obtaining and financing adequate space in time for an orderly opening and operation of the school.*

SCHOOL MANAGEMENT CONTRACTS – If the proposed charter school intends to enter into a contract with an education management organization (EMO), inclusion of the following is recommended:

- A description of the proposed contract including roles and responsibilities, performance evaluation measures, payment structure, conditions for renewal and termination, and investment disclosure;
- A draft of the proposed management contract;
- A recent corporate annual report and audited financial statements for the EMO;
- A description of the firm's roles and responsibilities for the financial management of the proposed charter school and the internal controls that will be in place to guide this relationship;
- A list of other schools managed by the school management company, including contact information; and
- A summary of the company's history and philosophy, past results of its school management efforts, and background on its corporate leaders.

Evaluation Criteria

Substantial evidence is provided of clear understanding and agreement concerning the respective roles and responsibilities of the governing board and any proposed management company, including a clearly defined performance-based relationship between the organization and the school's board.

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VIII. IMPACT ON THE CHARTER AUTHORIZER

Provide information regarding the potential effects of the charter school on the charter authorizer and/or the school district in which it will be located, including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects. *[Ref. California Education Code §47605(g)]*

Evaluation Criteria

Substantial evidence is provided that the applicant has made a thorough and conscientious attempt to examine the issues listed here through dialogue with the charter authorizer and/or school district officials.

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IX. SPECIAL INSTRUCTIONS FOR STATE CHARTER SCHOOL PETITIONS

If submitting a petition for a charter school that will operate at multiple sites in more than one school district or more than one county, the following elements should also be included:

- The types and potential location of each charter school facility that the petitioner proposes to operate. *[Ref. California Education Code §47605.8(d)]* A list of each site that will be operated by the school, as well as the general location of each site the school intends to add; a description of the potential facilities to be used at each site; and the approximate number of students that can safely be accommodated at each site.² *[Ref. California Education Code §47605(b)(5)(D)]*
- A description of how the charter school will provide instructional services of statewide benefit that cannot be provided by a charter school operating in only one school district or only in one county. *[Ref. California Education Code §47605.8(b)].*

Until such time as regulations are adopted, it is recommended that the description include, but not be limited to:

- o How the school will further the objectives of the Charter Schools Act of 1992 specified in Education Code §47601 (e.g., providing parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system).
- o How the school's organization and administration will be beneficial for the school (e.g., in fund raising, community partnerships, or relationships with institutions of higher education) and will meet state requirements for collection of data on student achievement, average daily attendance, and financial accountability.
- o Information on how the charter school will serve student populations or geographic areas that have been determined to be at-risk, low performing, or economically disadvantaged; or areas with inadequate school facilities.
- o An acknowledgement that an annual independent audit of the school must be conducted in keeping with Education Code §47605(b)(5)(I) and an indication of how the school's individual sites will be appropriately included in the audit process.
- o An acknowledgement that the school must pay charges for costs of oversight covering sites in keeping with statute, and that (if applicable) the State Board may delegate oversight and monitoring of the school's operations to a third party.

² This additional element should also be included in any petition for establishment of a charter school that is submitted directly to a county board of education.

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- o Consistent with the proposed charter, an assurance that the educational program described in the charter will be essentially similar at each site and, thus, that each student's educational experience will be reasonably the same with regard to instructional methods, instructional materials, staffing configuration, personnel requirements, course offerings, and class schedules.
- o A description of how the school and each of its sites will participate in a special education local plan area (SELPA) pursuant to Education Code §47641, or will otherwise arrange for delivery of special education services and programs; and
- o A plan for operations of the school that describes the distinction between centralized and site level responsibilities and includes a staffing plan to implement the activities at the designated level. The plan shall address all topics of school operations including, but not limited to: facilities and site operations, legal and programmatic compliance, financial administration, governance, and decision-making authority.

Evaluation Criteria

Substantial evidence is provided:

- *That the applicant is familiar with California charter law, including the impact of its funding methods on the operations of multi-site charters;*
- *That the applicant has the organizational background and skills to manage the complexity of a multi-site charter;*
- *Of a reasonable plan for development and phasing-in of site operations.*

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ASSURANCES

This form is intended to be signed by a duly authorized representative of the applicant and submitted with the Full Application.

As the authorized representative of the applicant, I hereby certify that the information submitted in this application for a charter for _____ (name of school) to be located at _____ is true to the best of my knowledge and belief; I also certify that this application does not constitute the conversion of a private school to the status of a public charter school; and further I understand that if awarded a charter, the school:

1. Will meet all statewide standards and conduct the student assessments required, pursuant to Section 60605, and any other statewide standards authorized in statute, or student assessments applicable to students in noncharter public schools. [Ref. California Education Code §47605(c)(1)]
2. Will/will not (**circle one**) be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Act (chapter 10.7 (commencing with Section 3540) of Division 4 of Title 4 of Title 1 of the Government Code.³ [Ref. California Education Code Section 47605(b)(5)(O)]
3. Will be nonsectarian in its programs, admissions policies, employment practices, and all other operations. [Ref. California Education Code Section 47605(d)(1)]
4. Will not charge tuition. [Ref. California Education Code Section 47605(d)(1)]
5. Will admit all students who wish to attend the school, and who submit a timely application, unless the school receives a greater number of applications than there are spaces for students, in which case each applicant will be given equal chance of admission through a random lottery process. [Ref. California Education Code Section 47605(d)(2)(B)]
6. Will not discriminate against any student on the basis of ethnic background, national origin, gender, or disability. [Ref. California Education Code Section 47605(d)(1)]
7. Will adhere to all provisions of federal law relating to students with disabilities, including the IDEA, Section 504 of the Rehabilitation Act of 1974, and Title II of the Americans with Disabilities Act of 1990, that are applicable to it. .
8. Will meet all requirements for employment set forth in applicable provisions of law, including, but not limited to credentials, as necessary. [Ref. Criteria for Review, §11967.5.1(f)(5)]
9. Will ensure that teachers in the school hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools are required to hold. As allowed by statute, flexibility will be given to non-core, non-college preparatory teachers. [Ref. California Education Code Section 47605(l)]
10. Will at all times maintain all necessary and appropriate insurance coverage.
11. Will follow any and all other federal, state, and local laws and regulations that pertain to the applicant or the operation of the charter school.

Authorized Representative's Signature

Date

³ In the case of any petition to establish a charter school that is approved by the State Board of Education, the charter school must be deemed the exclusive public school employer.

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SUBMISSION PACKAGE

Application:

In addition to the narrative in response to Sections I through XIII of the guidelines above, applicants should include the attachments listed below. Again, the application should not exceed [X] pages and should be completed on 8-1/2" by 11" paper with readable font and reasonable margins. The total number of pages should be clearly referenced in the text and the table of contents. It is recommended that at least [x] number of bound copies.

Attachments:

1. Necessary Signatures, i.e., signatures that comply with the provisions of Education Code §47605(a) or §47605.6(a), as applicable.
2. Completed Assurances page
3. Evidence of the organization's incorporation
4. Sample curriculum
5. Letters of support from partner organizations (optional)
6. Organizational chart of school
7. Budget [A template for budget submissions will be provided.]
8. Others of the applicant's choosing

Resources

California Department of Education, Charter Schools Web Page

www.cde.ca.gov/charter - includes information about charter schools in the state and contact information for the state Charter Schools Office.

California Network of Educational Charters (CANEC)

www.canec.org - a charter school membership organization that provides advocacy, resources, and services to charter schools in California.

Charter Schools Development Corporation (CSDC)

www.csus.edu/ier/charter/center.html - provides experienced and expert technical assistance, training, and resources to California charter school developers, operators, charter-granting agencies, and policy makers. Offers downloadable sample documents, policy papers, and planning tools for charter school leaders.

U.S. Department of Education (Charter Schools website)

www.uschartershools.org - serves as an overall information clearinghouse about charter schools, including federal efforts to support charter schools

Center for Education Reform (CER)

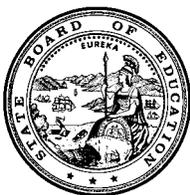
www.edreform.com - provides information about the status of charter schools in each state, as well as legislation and charter news from around the country.

Charter Friends National Network (CFNN)

www.charterfriends.org - a network of state charter school support organizations, CFNN provides resources on facilities financing, accountability, special education, working with EMOs and school designs, and other issues.

California Charter School Law and Regulations

The California Charter School Law, *California Education Code Sections 47600 – 47616.5*, “*Charter Schools Act of 1992*,” as amended can be found at <http://www.cde.ca.gov/charter/regs/law>.



SEPTEMBER 2003 AGENDA

SUBJECT:

Legislative Update: Including, but not limited to, information of legislation and approval of legislative priorities.

<input checked="" type="checkbox"/>	ACTION
<input checked="" type="checkbox"/>	INFORMATION
<input type="checkbox"/>	PUBLIC HEARING

RECOMMENDATION:

Discuss highlighted legislation and take action on specific legislation as deemed appropriate.
Adopt legislative priorities to guide Department staff.

Summary of Previous State Board of Education Discussion and Action.

At the July 2003 meeting the Board adopted new bylaws establishing two legislative liaisons for the purpose of considering positions on pending legislation and proposing legislation for the following year. In September 2001, the Board had a policy retreat to discuss and establish Board priorities. At that retreat, the following topics were identified as areas of special importance to the Board: Testing, Accountability, Curriculum and Instruction, Professional Development, and Communication.

President Hastings has appointed Mr. Fisher and Mr. Rodriguez to serve as legislative liaisons. On August 21, 2003, the liaisons met with Board and Department staff to consider pending legislation and propose legislative priorities. The priorities would guide and direct Board and Department staff in their communications and actions in regard to legislative proposals in 2004. The policy directions could not realistically be applied to the current year's Legislative session, since the Legislature is scheduled to adjourn September 12th.

Summary of Key Issue(s).

Not Applicable.

Fiscal Analysis (as appropriate).

Not Applicable.

Background Information Attached to this Agenda Item.

Recommendations from the legislative liaisons and a legislative update memorandum are attached.

Legislative Policy Recommendations:

- 1) Preserve the existing assessment system (including STAR, CAHSEE, CELDT).
- 2) Maintain the accountability system making only those minor conforming changes necessary to comply with the No Child Left Behind (NCLB) Act.
- 3) Encourage more submissions of instructional materials by publishers that will meet California's rigorous requirements.
- 4) Safeguard the academic content standards as the foundation of California's K-12 educational system.

DATE: August 21, 2003

TO: Members, State Board of Education

FROM: B. Teri Burns, Deputy Superintendent, CDE Government Affairs

SUBJECT: Legislative Update on AB 356 (Hancock), AB 1485 (Firebaugh), AB 921 (Firebaugh), and AB 1548 (Pavley), as the measures relate to the recently proposed **SBE Legislative Policy Recommendations.**

1) Preserve the existing assessment system (including STAR, CAHSEE, CELDT).

AB 356 (Hancock) As amended, August 18, 2003, this bill revises the state testing program to repeal school and staff rewards programs; provide for diagnostic assessment but not standardized testing in grade 2 and delay the requirement to pass the exit exam for high school graduation. Specifically, AB 356:

- Repeals the requirement for STAR Testing in grade 2 as of July 1, 2004.
- Delays the requirement to pass the exit exam in order to graduate high school by two years so that the initial class required to pass the exam will be the class of 2005-06.
- Repeals the Certificated Staff Performance Incentive Reward Program and the Governor's Performance Award Program.

Issues:

- Elimination of benefits gained by grade 2 testing.
- Elimination of incentives, some form of which are required by NCLB.

2) Maintain the accountability system making only those minor conforming changes necessary to comply with the No Child Left Behind (NCLB) Act.

AB 1485 (Firebaugh) As amended, August 19, 2003, this bill makes modifications to the Reading First Program in regard to English learners and existing law regarding primary language assessment. Reading First, a competitive grant for early intervention reading program was established as part of the No Child Left Behind Act (NCLB) under Title I. Specifically, the bill would:

- Require the Reading First Grants be provided to Proposition 227 waived classrooms (bilingual programs) if the classrooms use the adopted alternative formats (currently Open Court or Houghton/Mifflin have alternative formats in Spanish).
- Restrict the increase in federal funding (approximately \$13 million) from being distributed prior to revising (and obtaining federal approval) a revised State Reading First Plan.
- Require professional development tailored to the Spanish adopted alternate format materials for teachers in Proposition 227 waived classrooms.
- Require the Board to determine if there is a sufficient need to have other alternative formats of the adopted programs in other languages.

Issue:

- Amendment and approval of Reading First Plan would make changes in the current assessment system

3) Encourage more submissions of instructional materials by publishers that will meet California's rigorous requirements.

AB 921 (Firebaugh) As amended, August 15, 2003, this bill requires the State Department of Education to collect fees from textbook publishers in support of the adoption process. Specifically, it:

- Requires the department to collect a fee, up to \$50 per text book or other item, from each instructional material publisher before submitting instructional materials for review and adoption by the SBE. Publishers would be required to pay a fee **before** the publisher knew whether the instructional materials would be adopted by the SBE.
- Creates the Publishers and Manufacturers Submission Fee Fund to which fees are deposited for subsequent appropriation to the CDE to fund the Curriculum Development and Supplemental Materials Commission.

Issue:

- During the last adoption cycle there were very few publishers who submitted materials. Requiring a fee would further dilute and pool of eligible materials to review for adoption.

4) Safe guard the academic content standards as the foundation of California's k-12 educational system.

AB 1548 Pavley As amended, August 18, 2003, this bill establishes the Office of Education and the Environment (OEE) within the California Environmental Protection Agency and requires it to develop environmental education principles and a model curriculum. Specifically, it:

- Requires the OEE, in cooperation with the CDE, State Board of Education (SBE) and Secretary for Education, to develop and implement a unified education strategy on the environment to do all of the following: a) Coordinate instructional resources and strategies for providing student participation with onsite conservation efforts. b) Promote service-learning opportunities. c) Assess the impact on students of the unified education strategy on student achievement and resource conservation. d) By June 30, 2006 report to the Legislature and Governor on its progress on implementing the unified education strategy.
- Requires the CDE, SBE, and Secretary for Education, in cooperation with the Board, to develop and implement a teacher training and implementation plan to guide the implementation of the unified education strategy.
- Requires the IWMB, SDE, SBE, and Secretary for Education to develop education principles for the environment for elementary and secondary school students by July 1, 2004. The principles may be updated every four years thereafter. The principles shall be aligned to content standards for elementary and secondary education developed pursuant to Section 60605 of the Education Code. The principles shall be used for the following: a) To direct state agencies that include environmental education in regulatory decisions, or enforcement actions. b) To align state agency environmental education programs and materials.
- Requires the education principles to be aligned by grade level to state adopted content standards in core areas.
- Requires that the education principles be incorporated in criteria developed for textbook adoption.
- Requires that, if the state adopted content standards are revised, the education principles for the environment be appropriately integrated into the standards.
- Requires the OEE to develop, in consultation with various agencies, a model curriculum to incorporate those principles, and submit the curriculum to the

Curriculum Development and Supplemental Materials Commission of the CDE for review and approval by July 1, 2005.

- Upon review and approval by the Supplemental Materials Commission, requires that the curriculum be submitted to the Secretary of the Environmental Protection Agency and the Secretary of the Resources Agency for review and comment. The curriculum is then to be sent to the State Board of Education (SBE) for its approval and then considered by the Superintendent of Public Instruction (SPI) in the model curriculum process.
- Requires that the model curriculum be made available to elementary and secondary schools students as soon as funding is provided to do so. Requires the CDE to make the curriculum available electronically.
- Requires the CDE to incorporate the education principles for the environment into the curriculum frameworks and instructional materials.
- Establishes the Environmental Education Account within the State Treasury. Moneys in the account may, upon appropriation by the Legislature, be expended by the California Environmental Protection Agency, in consultation with the board. Requires the funds in the account be used for the purposes of this act. Allows the fund to receive funds from federal, state, local, private and public organizations, and individuals. Also allows the fund to receive proceeds from judgment in state and federal court when the judgment specifies that the proceeds are to be used for the purposes of this part. Private contributors may not have the authority to influence or direct the use of their contributions.
- Requires the Office of Education and the Environment to coordinate with other agencies and groups with expertise in education and the environment, including, but limited to, the California Environmental Interagency Network.
- Requires the model curriculum to meet the requirements prescribed in Section 60200 of the Education Code.
- Makes implementation of most provisions contingent on appropriation of funds in future budgets.

Issues:

- Re-opening frameworks and instructional materials approval for environmental education emphasis.
- Development of model curriculum and teacher training relative to environmental education.



SEPTEMBER 2003 AGENDA

SUBJECT	X	Action
AB 2326 (Frommer) Task Force on Braille Reading Standards – Approve Proposed Members	<input type="checkbox"/>	Information
	<input type="checkbox"/>	Public Hearing

Recommendation:

Approve Staff Recommendation of Membership of Task Force

Summary of Previous State Board of Education Discussion and Action

N/A

Summary of Key Issue(s)

Education Code 56351.7 (a) requires that an advisory task force be formed by the State Superintendent of Public Instruction to develop recommendations on Braille Standards and to report to the Governor and Legislature by June, 2004. Education Code Section 56351.7 (b) requires the task force membership be approved by the State Board of Education and include specified membership. The criteria of the membership is fully represented in staff recommendation.

Fiscal Analysis (as appropriate)

Legislation included funding for membership expenses.

Attachment(s)

[Recommended Membership for the AB 2326 Task Force on Braille Reading Standards \(Pages 1-5\)](#)

Recommended Membership For AB 2326 Task Force On Braille Reading Standards

First Name	Last Name	Title	Highest Degree Area	Degree Area
Marilyn	Astore	Acting Director, Child Development and Early Childhood Programs	M.A.	Curriculum and Instruction
Organization Name		Representing Group		Geography
Sacramento City USD				North
Summary				
She is the Acting Director, Child Development and Early Childhood Development Programs for the Sacramento City Unified School District. She is also the Director, PreKindergarten, Governor's Reading Institutes, UCLA Extension and LAUSD Project, and a PreK Literacy instructor at UCLA extension. Prior to this, she was the Assistant Superintendent of Instructional Support Services at the Sacramento County Office of Education. She has served on numerous committees and advisory boards and is the former Chair of the Curriculum Development and Supplemental Materials Commission. She received her M.A. in curriculum and instruction from CSUS, and her B.A. in history from Holy Names College. She earned credentials in professional administrative services and general elementary.				

First Name	Last Name	Title	Highest Degree Area	Degree Area
Rod	Brawley	Publications Consultant		
Organization Name		Representing Group		Geography
CDE, Clearinghouse for Specialized Media & Technology		Groups that advocate for the visually impaired		North
Summary				
He is a consultant in CDE's Clearinghouse for Specialized Media & Technology (CSMT). CSMT's responsibilities include the production and distribution of braille, large print, and recorded versions of textbooks adopted by the SBE to public schools statewide. He served as an Ex-Officio Trustee for the American Printing House for the Blind (APH) Federal Quota Program. In addition, he helped pioneer many educational programs and technologies for students and teachers - APH Braille File Repository, CA Braille-N-Teach online list service, APH Louis Database of Accessible Textbooks, CDE's High School Braille Reimbursement Program, and Low Vision Clinic at the CA School for the Blind. In 2002-03, he initiated legislation (SB 842) that required publishers of instructional materials to make printed textbooks more legible, to caption educational videos, to make their websites adhere to accessibility standards, and to improve access to technology-based learning resources.				

Recommended Membership For AB 2326 Task Force On Braille Reading Standards

First Name	Last Name	Title	Highest Degree Area	Degree Area
Maureen	Burness	Assistant Superintendent	M.S.	Counselor Education
Organization Name		Representing Group		Geography
Placer Nevada SELPA				North
Summary				
<p>She is the Assistant Superintendent, Placer Nevada SELPA. Prior to this, she was the Assistant Superintendent, Yolo County SELPA. Her primary responsibilities include leadership in all areas of special education at the SELPA level. For the past five years, she served as an officer, State SELPA Administrators of California. In addition, she was the Co-Director, ACSA Special Education Academy where she was responsible for the curriculum development, implementation, and review of the annual professional development opportunity in their area. She is the founder of the Maureen O'Leary Business Foundation for Special Needs Children. She received her M.A. in counselor education from CSUS, and her B.S. in Applied Behavioral Science from UC Davis. She earned credentials in professional and preliminary administrative services, and pupil personnel services – school psychology and basic authorization.</p>				

First Name	Last Name	Title	Highest Degree Area	Degree Area
Nancy	Burns	President	M.S.	
Organization Name		Representing Group		Geography
National Federation for the Blind of CA		Groups that advocate for the teaching of braille		South
Summary				
<p>She has a full-time volunteer position overseeing the CA affiliate of the National Federation of the Blind. She also served as the sole proprietor of Creating Options, a home-based consulting firm for blind and visually impaired clients. In addition, she was a rehabilitation counselor for the blind at the CA State Department of Rehabilitation. She received a M.S. from St. Mary's College, and a B.A. from San Francisco State.</p>				

First Name	Last Name	Title	Highest Degree Area	Degree Area
Sue	Douglass	IV Teacher	M.S.	Counseling
Organization Name		Representing Group		Geography
Castro Valley Unifed School District		Teachers of visually impaired pupils		North
Summary				
<p>She is a teacher of the visually impaired with assignments that have include resource teaching, infant through high school, and itinerant teaching, age 3-21. Her current assignment is preschool Visually Impaired-Special Day Class (VI-SDC) and middle school VI-SDC. She was a lecturer at San Francisco State University, Department of Special Education, Program in Visual Impairments. In addition, she served as a member of the Blindness Advisory Task Force, 2001-02, and Advisory Committee for Program in Visual Impairments, 1999-2003. She received a M.S. in counseling and pupil personnel services credential from CSU Hayward, and a A.B. in biological science from UC Davis. She has a specialist credential in physically handicapped-visually handicapped from San Francisco State.</p>				

Recommended Membership For AB 2326 Task Force On Braille Reading Standards

First Name	Last Name	Title	Highest Degree Area	Degree Area
Joy	Efron	Coordinating Principal	Ed.D.	Educational Administration
Organization Name		Representing Group		Geography
Frances Blend School, LAUSD, Programs for Students with Visual Impairment		Braille experts		South
Summary				
<p>For the past 11 years, she has been the coordinating principal at Frances Blend School and Visually Impaired, LAUSD. She is responsible for administration, supervision, coordination, and instructional leadership of special elementary school (infant thru grade six) for visually impaired students and multi-handicapped students; 22 resource rooms in regular elementary, junior, and senior high schools; itinerant program serving students in 270 schools; and orientation and mobility instruction. She is affiliated with many professional organizations including the Educational Services Advisory Committee and Program Review Committee, Braille Institute; and Advisory Committee, Division of Special Education at CSU Los Angeles. She has also done numerous staff development presentation for LAUSD. She received a Ed.D. in educational administration from Brigham Young University, a M.A. in special education for the deaf and hard of hearing from CSU Los Angeles, and a B.A. in special education from Michigan State University.</p>				

First Name	Last Name	Title	Highest Degree Area	Degree Area
Caroline	Round	VI Teacher	B.S.	Sociology/Social Work
Organization Name		Representing Group		Geography
San Bernardino Co. Superintendent of Schools		Teachers of the visually impaired		South
Summary				
<p>She is a teacher of the visually impaired in an SDC classroom. She currently serves as the second vice-president for the National Federation of the Blind of CA and the President for the National Federation of the Blind, High Desert Chapter. She received a B.S. in sociology/social work from CSU San Bernardino, and clear and preliminary multiple subjects credential from Chapman University. She is currently working on her teaching credential in teacher of the visually impaired.</p>				

Recommended Membership For AB 2326 Task Force On Braille Reading Standards

First Name	Last Name	Title	Highest Degree Area	Degree Area
Sharon	Zell-Sacks	Professor	Ph.D.	Special Education
Organization Name		Representing Group		Geography
CSU Los Angeles, Division of Special Education, VI Program		Researchers in the field of visual impairment		South
Summary				
She is a professor of special education at CSU Los Angeles. Prior to this, she was the assistant superintendent for the CA School for the Blind. Her collegiate/school partnerships include the CDE Blindness Advisory Task Force, CA School for the Blind, and Blind Babies Foundation. She also has many professional and academic association memberships including the Association for Education and Rehabilitation of the Blind and Visually Impaired, Council for Exceptional Children, CA Transcribers and Educators of the Visually Impaired, and Association for Persons with Severe Handicaps. She has authored many books and articles on visual impairment and blindness. She received her Ph.D. in special education from UC Berkeley and San Francisco State University, a M.A. in special education from San Francisco State, and a B.A. in psychology from San Jose State.				

First Name	Last Name	Title	Highest Degree Area	Degree Area
Donna	Sexton	President		
Organization Name		Representing Group		Geography
CA Chapter Parents of Blind Children		Parents of visually impaired pupils		North
Summary				
She is the parent of a blind child. She is the President for the CA Chapter Parents of Blind Children and a counselor for Orientation Center for the Blind.				

First Name	Last Name	Title	Highest Degree Area	Degree Area
Cathy	Skivers	Past President		
Organization Name		Representing Group		Geography
CA Council of the Blind		Groups that advocate for the teaching of braille		North
Summary				
She is the past President for the CA Council of the Blind.				

Recommended Membership For AB 2326 Task Force On Braille Reading Standards

First Name	Last Name	Title	Highest Degree Area	Degree Area
Leslie	Thom	Consumer/Parent of a blind student	B.A.	Psychology
Organization Name		Representing Group		Geography
		Parents of visually impaired pupils		North
Summary				
She is the parent of a blind child. She is a member of the In Home Supportive Services Task Force and Low Incidence of Disability Advisory Committee. She also served as a member of the CA Blindness Advisory Task Force and the Advisory Committee for Persons with Disabilities, County of Sacramento. For the past 11 years, she has been a member of the CA Council for the Blind. She received her B.A. in psychology from San Francisco State University.				

First Name	Last Name	Title	Highest Degree Area	Degree Area
Stuart	Wittenstein	Superintendent	Ed.D.	Education of Blind & Visually Impaired
Organization Name		Representing Group		Geography
CA School for the Blind		Braille expert		North
Summary				
For the past 7 years, he has been the Superintendent at the CA School for the Blind in Fremont. Prior to this, he was the principal at St. Joseph's School for the Blind in New Jersey. He received the Commendation for Leadership in Braille Literacy from the National Federation of the Blind of CA (1997). He served as past president and president for the Council for Exceptional Children, Division on Visual Impairments and is affiliated with many other organizations including the National Clearinghouse for Professions in Special Education, CA Transcribers, Educators of the Visually Handicapped, Association for Education and Rehabilitation of the Blind and Visually Impaired, and American Printing House for the Blind. He received his Ed.D. in education of blind and visually impaired and Ed.M. in administration/special education from Teachers College, Columbia University; a M.S.Ed. in education of mentally retarded from City College of New York; and a B.A. in English/secondary education from S.U.N.Y. at Buffalo.				



SEPTEMBER 2003 AGENDA

SUBJECT The Principal Training Program (AB 75) – Approve Training Providers	X	ACTION
		INFORMATION
		PUBLIC HEARING

Recommendation:

The California Department of Education requests approval of the list of Recommended Training Providers for The Principal Training Program (AB 75).

Applications to become a State Board of Education approved provider are reviewed using the SBE adopted criteria.

Summary of Previous State Board of Education Discussion and Action

The State Board of Education approved the original criteria and requirements for Principal Training Program applications at the February 6-7, 2002 meeting.

The State Board of Education approved clarification of the original criteria that specifies the minimum number of hours of training focused on adopted instructional materials at each grade level for Module 1 at the April 6, 2003 meeting.

Summary of Key Issue(s)

The Principal Training Program requires the State Board of Education to approve all program applicants.

Fiscal Analysis (as appropriate)

N/A

Attachment(s)

Attachment 1: Principal Training Program Recommended List of Training Providers September 2003

PRINCIPAL TRAINING PROGRAM
RECOMMENDED LIST OF TRAINING PROVIDERS

September 2003

MODULE 1 – Leadership and Support of Instructional Programs

San Bernardino County Office of Education

Elementary

Houghton Mifflin Company Houghton Mifflin Reading: A Legacy of Literacy

Orange County Office of Education

Elementary

Houghton Mifflin Company Houghton Mifflin Reading: A Legacy of Literacy

Contra Costa County Office of Education

Elementary

SRA/McGraw Hill SRA Open Court Reading

Imperial County Office of Education

Elementary

SRA/McGraw Hill SRA Open Court Reading

Middle School Level

McDougal Littell McDougal Littell Reading & Language Arts
Program: Language of Literature
SRA/McGraw Hill SRA/REACH
McDougal Littell Algebra 1, Concepts and Skills

Ventura County Office of Education

Elementary

Houghton Mifflin Company Houghton Mifflin Reading: A Legacy of Literacy

Madera

Elementary

Houghton Mifflin Company Houghton Mifflin Reading: A Legacy of Literacy

Stanislaus County Office of Education

Middle School Level

McDougal Littell McDougal Littell Reading & Language Arts
Program: Language of Literature



SEPTEMBER 2003 AGENDA

SUBJECT The Principal Training Program (AB 75) - Approve Local Educational Agencies (LEAs) and Consortia Funding Applications.	X	ACTION
		INFORMATION
		PUBLIC HEARING

Recommendation:

The California Department of Education requests State Board of Education approval of LEAs and Consortia members who have submitted applications for funding under The Principal Training Program (AB 75).

The California Department of Education staff recommends that the State Board of Education approve the attached list of LEAs and Consortia applications by name only. Administration of funding is dependent upon further information to be provided by LEAs, such as names of administrator participants, and number of hours in actual training. It is feasible that initial award requests will be amended throughout the three-year funding period.

Summary of Previous State Board of Education Discussion and Action

The State Board of Education approved criteria and requirements for Principal Training Program applications at the February 6-7, 2002 meeting.

Summary of Key Issue(s)

The Principal Training Program requires the State Board of Education to approve all program applicants.

Fiscal Analysis (as appropriate)

N/A

Attachment(s)

ATTACHMENT 1 – Local Educational Agencies Recommended for State Board of Education Approval (Page 1)

ATTACHMENT 2 – Consortia Members Recommended for State Board of Education Approval (Page 1-2)

**PRINCIPAL TRAINING PROGRAM
Local Educational Agencies Recommended
For
State Board of Education Approval
September 2003**

Applications received during the month of July & August 2003

LOCAL EDUCATIONAL AGENCIES	Total Number of Administrators	Total Amount of State Funding Requested
LASSEN		
Lassen Union High	3	\$9,000.00
LOS ANGELES		
Gorman Elementary	1	\$3,000.00
William S. Hart Union High	8	\$24,000.00
MENDOCINO		
Ukiah Unified	1	\$3,000.00
RIVERSIDE		
Moreno Valley Unified	40	\$120,000.00
SAN DIEGO		
Mountain Empire Unified	1	\$3,000.00
SAN JOAQUIN		
Linden Unified	2	\$6,000.00
SAN MATEO		
Las Lomas Elementary	1	\$3,000.00
San Mateo County Office of Education	8	\$24,000.00
SONOMA		
Cloverdale Unified	1	\$3,000.00
VENTURA		
Mesa Union Elementary	1	\$3,000.00

Total State Funds Requested for July & August LEA Approval: \$201,000.00
Total Number of LEAs Requested for July & August Approval: 11

Total Number of Approved Single LEAs to date: 339
Total State Funds Encumbered by Single LEAs to date: \$27,204,000.00

Total Number of Administrators Recommended for Program Participation in July & August: 67
Total Number of Administrators Approved to date for Program Participation: 10,428

**PRINCIPAL TRAINING PROGRAM
Consortium Members Recommended
for
State Board of Education Approval
September 2003**

Applications received during the month of July & August 2003

CONSORTIA With RECOMMENDED MEMBERSHIP	Total Number of Administrators in Consortium	Total Amount of State Funding Requested
KERN COUNTY OFFICE OF EDUCATION Southern Kern Unified	104	\$312,000.00
PLACER COUNTY OFFICE OF EDUCATION Ophir Elementary	133	\$399,000.00
SANTA BARBARA COUNTY OFFICE OF EDUCATION Hueneme Elementary San Luis Obispo County Office of Education	115	\$345,000.00
SANTA CLARA COUNTY OFFICE OF EDUCATION East Side Union High Fremont Union High	12	\$36,000.00
SANTA CRUZ COUNTY OFFICE OF EDUCATION Santa Cruz City Elementary	75	\$225,000.00
SHASTA COUNTY OFFICE OF EDUCATION Feather Falls Union Elementary Plumas Unified	85	\$255,000.00
TRINITY COUNTY OFFICE OF EDUCATION Burnt Ranch Elementary Coffee Creek Elementary Lewiston Elementary Southern Trinity Joint Unified	23	\$69,000.00
YOLO COUNTY OFFICE OF EDUCATION Yolo County Office of Education	0	\$0

Total Number of Consortia Participating in the Principal Training Program: 20
Total Number of New Consortia Recommended for July & August Approval: 1

Total Number of Single Local Educational Agencies Approved to
Participate in a Consortium: 221

Total Number of New Consortia Members Recommended for July & August Approval: 14

State Funds Approved for Consortia: \$4,080,000.00



SEPTEMBER 2003 AGENDA

SUBJECT Public Charter Schools Grant Program (PCSGP) Award Recipients – Approve Recommended Grant Award Recipients.	X	ACTION
		INFORMATION
		PUBLIC HEARING

Recommendation:

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve funding for the recommended list of PCSGP applicants.

Summary of Previous State Board of Education Discussion and Action

The PCSGP is funded by the U.S. Department of Education and provides grant awards for the final planning and initial implementation of public charter schools, and for the dissemination of best practices developed in charter schools to other charter and traditional public schools. Start-up grants of up to \$450,000 each are available to charter school developers to complete or refine their plans and to open a public charter school. Implementation grants of up to \$400,000 are available to charter schools that have received an SBE number, but have not yet started operating or have been operating for less than two years, to fund one-time costs associated with opening a charter school. Dissemination grants of up to \$200,000 are available to charter schools that have been operating a minimum of three years and that have demonstrated success, to share best practices with other charter and traditional schools.

In September 2001, the U.S. Department of Education awarded California a three-year grant in the amount of \$72 million, of which \$24 million is available for federal fiscal year 2002-03. At its October 2001 meeting, the SBE approved the PCSGP January 2002 Request for Applications (RFA), which included scoring rubrics for each of the three types of available grants. A key feature of the RFA is the preference given to charter schools that intend to serve, or are currently serving, educationally disadvantaged students (students whose assigned neighborhood traditional public school earns Academic Performance Index (API) and similar school scores in the bottom two deciles). CDE updated the January 2002 RFA in the area of due dates to produce the RFA used in the latest (June 2003) grant cycle.

Summary of Key Issue(s)

The application deadline for the June 2003 grant cycle was June 27, 2003. The CDE received 88 start-up, 44 implementation, and nine dissemination grant applications. A peer review scoring of the grant applications was completed August 6-7, 2003. Each application was read and scored at least twice using the seven-criteria scoring rubrics for start-up and implementation grants, and the five-criteria scoring rubrics for the dissemination grants. Standardized Testing and Reporting (STAR) data and API rankings were also considered. The scores for each application were averaged for a final score, and applications were ranked from highest to lowest.

Summary of Key Issue(s)

A list of proposed grant award recipients, funding amounts, and summary statistical information will be included in the last minute memorandum.

Fiscal Analysis (as appropriate)

N/A

Attachment(s)

N/A. Additional information will be provided as a last minute memorandum.

Last Minute Memorandum

To: STATE BOARD MEMBERS

Date: September 11, 2003

From: Susan Lange

Re: ITEM # 24

Subject **REVISED - PUBLIC CHARTER SCHOOLS GRANT PROGRAM AWARD
RECIPIENTS - APPROVE RECOMMENDED GRANT AWARD RECIPIENTS**

Item 24 in the State Board of Education (SBE) agenda package for the September 2003 meeting proposes funding recommendations for the Public Charter Schools Grant Program (PCSGP). The PCSGP is funded by the U.S. Department of Education and provides grant awards for the final planning and initial implementation of public charter schools, and for the dissemination of best practices developed in charter schools to other charter and traditional public schools. Start-up grants of up to \$450,000 each are available to charter school developers to complete or refine their plans and to open a public charter school. Implementation grants of up to \$400,000 are available to charter schools that have received a SBE number, but have not yet started operating or have been operating for less than two years, to fund one-time costs associated with opening a charter school. Dissemination grants of up to \$200,000 are available to charter schools that have been operating a minimum of three years and that have demonstrated success, to share best practices with other charter and traditional schools.

The June 2003 PCSGP application deadline was June 27, 2003. The California Department of Education (CDE) received 88 start-up applications, 44 implementation applications, and nine dissemination applications. A peer review scoring of the grant applications was completed August 6 through 7, 2003. Each grant application was read and scored at least twice, using a seven-criteria scoring rubric for the start-up and implementation grants, and a five-criteria scoring rubric for dissemination grants. The scores for each application were averaged for a final score, and applications were ranked from highest to lowest.

We propose funding 19 start-up, 10 implementation, and two dissemination grants for a total funding level of \$12,642,423.00, to be distributed over a period of two years.

Please insert the following attachments:

[Attachment 1: Public Charter School Grant Program Grant Applications Awarded Funding \(June 2003-Grant Cycle\) Start-Up Grants \(Pages 1-2\)](#)

[Attachment 2: Public Charter School Grant Program Grant Applications Awarded Funding \(June 2003-Grant Cycle\) Implementation Grants \(Page 1-1\)](#)

[Attachment 3: Public Charter School Grant Program Grant Applications Awarded Funding \(June 2003-Grant Cycle\) Dissemination Grants \(Page 1-1\)](#)

Public Charter School Grant Program				
Grant Applications Awarded Funding				
(June 2003 - Grant Cycle)				
Start-up Grants				
<u>County</u>	<u>District/COE</u>	<u>School Name</u>	<u>Grant Award</u>	<u>Total</u>
Alameda	Oakland Unified School District	Bay Area Science and Sports Academy	\$450,000.00	
	Oakland Unified School District	Oakland's Alternative High School for Independent and Community Studies	\$450,000.00	\$900,000.00
Fresno	Fresno Unified School District	KIPP Fresno Academy	\$450,000.00	\$450,000.00
Los Angeles	Los Angeles Unified School District	Animo Venice Charter School	\$450,000.00	
		Aspire Public Schools Los Angeles K-5 Campus	\$450,000.00	
		Bert Corona Charter School	\$450,000.00	
		Downtown Early College High School	\$450,000.00	
	Glendale Unified School District	Glendale Community Learning Center	\$358,305.00	
	Los Angeles Unified School District	Main Street Academy	\$450,000.00	
	Pasadena Unified School District	NIA Educational Charter School	\$450,000.00	
Los Angeles Unified School District	Synergy Charter Academy	\$450,000.00	\$3,508,305.00	
Marin	Ross Valley School District	Ross Valley Charter School	\$450,000.00	\$450,000.00
Merced	Merced County Office of Education	Merced Community Charter Scholars	\$450,000.00	\$450,000.00
Riverside	Desert Sands Unified School District	NOVA Academy Early College High School	\$450,000.00	\$450,000.00

<u>County</u>	<u>District/COE</u>	<u>School Name</u>	<u>Grant Award</u>	<u>Total</u>
Sacramento	Sacramento City Unified School Distr	Aspire Public Schools Sacramento Elementary Campus	\$450,000.00	
		Language Academy of Sacramento	\$450,000.00	
		Sacramento New Technology High School	\$444,656.00	\$1,344,656.00
San Joaquin	Stockton Unified School District	Institute of Business, Management, and Law Charter High School	\$450,000.00	\$450,000.00
Stanislaus	Keyes Union Elementary Unified School District	The California Charter School in the Valley	\$305,556.00	\$305,556.00
			TOTAL FUNDING	\$8,308,517.00

Public Charter School Grant Program				
Grant Applications Awarded Funding				
(June 2003 - Grant Cycle)				
Implementation Grants				
<u>County</u>	<u>District/COE</u>	<u>School Name</u>	<u>Grant Award</u>	<u>Total</u>
Alameda	State Board of Education	KIPP Summit Academy	\$383,000.00	\$383,000.00
Los Angeles	Los Angeles Unified School District	City Life Downtown Charter School	\$400,000.00	\$400,000.00
Sacramento	Grant Joint Union High School District	Futures High School	\$400,000.00	\$400,000.00
San Diego	San Diego County Office of Education	Dehesa Charter School	\$400,000.00	
	San Diego Unified School District	KIPP Adelante Preparatory Academy	\$399,350.00	\$799,350.00
San Francisco	San Francisco Unified School District	KIPP San Francisco Bay Academy	\$400,000.00	\$400,000.00
Santa Clara	East Side Union High School District	Escuela Popular Accelerated Family Learning Center	\$400,000.00	
		San Jose Conservation Corps Charter School	\$398,647.00	\$798,647.00
Sonoma	Piner-Olivet Union School District	Piner-Olivet Charter High School	\$352,909.00	\$352,909.00
Stanislaus	Keyes Union Elementary School District	Gold Rush Home Study	\$400,000.00	\$400,000.00
			TOTAL FUNDING	\$3,933,906.00

Public Charter School Grant Program				
Grant Applications Awarded Funding				
(June 2003 - Grant Cycle)				
Dissemination Grants				
<u>County</u>	<u>District/COE</u>	<u>School Name</u>	<u>Grant Award</u>	<u>Total</u>
Santa Cruz	Pajaro Valley Unified School District	Alianza Charter School	\$200,000.00	\$200,000.00
San Diego	Grossmont Union High School District	Helix Charter High School	\$200,000.00	\$200,000.00
			TOTAL FUNDING	\$400,000.00



SEPTEMBER 2003 AGENDA

SUBJECT Assignment of Numbers for Charter School Petitions	X	ACTION
		INFORMATION
		PUBLIC HEARING

Recommendation:

California Department of Education (CDE) staff recommends that the State Board of Education (SBE) assign charter numbers to the charter schools identified on the attached list.

Summary of Previous State Board of Education Discussion and Action

The SBE is responsible for assigning a number to each approved charter petition. On the advice of legal counsel, CDE staff is presenting this routine request for a charter number as a standard action item.

Since the charter school law was enacted in 1992, the SBE has assigned numbers to 590 charter schools, including seven approved by the SBE after denial by the local agencies. Of these 590 schools, approximately 475 are estimated to be operating in the 2003-2004 school year. In addition, the SBE has approved eight all-charter school districts containing a total of 15 charter schools.

Summary of Key Issue(s)

The law allows for the establishment of charter schools. A charter school typically is approved by a local school district or county office of education. The entity that approves a charter is also responsible for ongoing oversight. A charter school must comply with all the contents of its charter, but is otherwise exempt from most other laws governing school districts.

Education Code 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 is within the cap on the total number of charter schools authorized to operate. As of July 1, 2003, the number of charter schools that may be authorized to operate in the state is 750. This cap may not be waived. This item will assign numbers to four more charter schools. Copies of the charter petitions are on file at the Charter Schools Office.

Fiscal Analysis (as appropriate)

N/A

Attachment(s)

Attachment 1: Assignment of Numbers for Charter School Petitions (Page 1-1)

September 2003 State Board of Education Meeting

Assignment of Numbers for Charter School Petitions

NUMBER	CHARTER SCHOOL NAME	CHARTER SCHOOL COUNTY	AUTHORIZING ENTITY	CHARTER SCHOOL CONTACT
591	Oasis Charter Academy	San Bernardino	Hesperia USD	Cynthia Ferguson 9543 SVL Box Victorville, CA 92392 (760) 241-6348
592	NEW (New Economics for Women) Canoga Park Academy Charter School	Los Angeles	Los Angeles USD	Maggie Cervantes 303 S. Loma Drive Los Angeles, CA 90017 (213) 483-2060
593	Pine Mountain Learning Center	Kern	El Tejon USD	Yvonne Riley P. O. Box 6688 Pine Mountain Club, CA 93222 (661) 242-1101
594	Learning Repertoire Charter Academy	Sacramento	Sacramento City USD	Glenda J. Driver or EveLynn J. Carr 7367 24 th Street, Suite 6 Sacramento, CA 95822 (916) 422-8374

Last Minute Memorandum

To: STATE BOARD MEMBERS

Date: September 4, 2003

From: Susan Lange

Re: ITEM 25

Subject ASSIGNMENT OF NUMBERS FOR CHARTER SCHOOL PETITIONS

California Department of Education staff recommends that the State Board of Education assign charter numbers to the charter schools identified on the attached list. These three charter schools were recently approved by local boards of education and must be numbered at the September meeting in order to open in September and receive funding.

This last minute item will assign numbers to three additional charter schools, numbered 595 through 597.

September 2003 State Board of Education Meeting

Assignment of Numbers for Charter School Petitions

NUMBER	CHARTER SCHOOL NAME	CHARTER SCHOOL COUNTY	AUTHORIZING ENTITY	CHARTER SCHOOL CONTACT
595	Progressive Education Entrepreneurial Charter School	Los Angeles	Los Angeles COE	Doris J. Sims 5202 Village Green Los Angeles, CA 90016 (323) 292-6670
596	Sacramento Charter High School	Sacramento	Sacramento City USD	Margaret Fortune PO Box 5447 Sacramento, CA 95817 (916) 732-4673
597	Today's Fresh Start Charter School	Los Angeles	Los Angeles COE	Jeanette Parker 4514 Crenshaw Blvd. Los Angeles, CA 90043 (323) 293-9826



SEPTEMBER 2003 AGENDA

SUBJECT: 2002-03 (and beyond) determination of funding requests from charter schools pursuant to Senate Bill 740 (Chapter 892, Statutes of 2001), specifically Education Code Sections 47612.5 and 47634.2.	<input checked="" type="checkbox"/> ACTION
	<input type="checkbox"/> INFORMATION
	<input type="checkbox"/> PUBLIC HEARING

RECOMMENDATION:

Take action on 2002-03 (and beyond) determination of funding requests from charter schools pursuant to Education Code Sections 47612.5 and 47634.2, based upon the review of the requests and the recommendations prepared by the Advisory Commission on Charter Schools and the California Department of Education.

Summary of Previous State Board of Education Discussion and Action.

Senate Bill 740 (Chapter 892, Statutes of 2001) enacted provisions of law calling upon charter schools to prepare and the State Board to act upon determination of funding requests relating to pupils who receive nonclassroom-based instruction (in excess of an amount of nonclassroom-based instruction that the statute allows as part of classroom-based instruction). The State Board adopted regulations (in keeping with SB 740) to define certain terms and establish criteria for the evaluation of determination of funding requests. The State Board also established the Advisory Commission on Charter Schools to provide (among other things) recommendations on the implementation of the provisions of SB 740.

Summary of Key Issue(s).

Under SB 740, an approved determination of funding is required (beginning in 2001-02) in order for a charter school to receive funding for pupils receiving nonclassroom-based instruction (in excess of the amount of nonclassroom-based instruction that the statute allows as part of classroom-based instruction). Beginning in 2002-03, determination of funding requests are allowed for multiple years. All requests in 2001-02 were for that year only.

The Advisory Commission on Charter Schools considered two 2002-03 (and beyond) determination of funding requests at its meeting on July 11, 2003.

Fiscal Analysis (as appropriate).

A determination of funding request approved at less than the 100 percent level may result in slightly reduced apportionment claims to the state. The reductions in claims would result in a proportionate reduction in expenditure demands for Proposition 98 funds. All Proposition 98 funds, by law, must be expended each fiscal year. Thus, a reduction in apportionment claims may be more accurately characterized as an expenditure shift than as absolute savings under typical circumstances. However, if total claims for Proposition 98 funding are greater than available funds in a given year, then the reduction in apportionments attributable to nonclassroom-based instruction may be regarded as a reduction in the deficit for that year.

Background Information attached to this Agenda Item.

The listing of specific recommendations is attached. Information submitted by each school and the analysis of that information prepared by CDE staff are available for public inspection at the State Board Office.

Attachment To Agenda Item Regarding
2002-03 (And Beyond) Determination Of Funding Requests
 September 2003

The tables below reflect the recommendations of the Advisory Commission on Charter Schools and California Department of Education staff regarding 2002-03 (and beyond) determination of funding requests submitted by charter schools. Both Advisory Commission recommendations were by unanimous vote of the members present.

RECOMMENDED FOR 100 PERCENT FOR TWO YEARS

Charter #	Charter School Name	Recommended Level	Recommended Year(s)
#27	Elk Grove Charter School	100%	Two years 2002-03 and 2003-04

The reasons justifying a level higher than 80 percent in 2002-03 and higher than 70 percent in 2003-04 are that (1) the school met the minimum criteria specified in the regulation approved by the State Board for the 100 percent level and (2) the school presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function.

RECOMMENDED FOR 100 PERCENT FOR ONE YEAR ONLY

Charter #	Charter School Name	Recommended Level	Recommended Year(s)
#171	New Jerusalem Charter School*	100%	One year only 2002-03

[* Second determination of funding request. School already has an approved 2002-03 only determination of funding at the 100 percent level. School requested multiple-year approval at the 100 percent level. Recommendation is to re-affirm approval at the 100 percent level for one year only (2002-03).]

The reasons justifying a level higher than 80 percent in 2002-03 are that (1) the school met the minimum criteria specified in the regulation approved by the State Board for the 100 percent level and (2) the school presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function.

Information regarding both of the above-mentioned determination of funding requests is available for public inspection at the State Board Office.



SEPTEMBER 2003 AGENDA

SUBJECT Instructional Materials Fund Budget – Approve 2003-04 Budget	X	ACTION
	X	INFORMATION
		PUBLIC HEARING

Recommendation:

Approve the Instructional Materials Fund Tentative Encumbrances and Allocations for fiscal year 2003-04 and the Final Determination of Encumbrances and Allocations of Instructional Materials Fund for fiscal year 2002-03.

Summary of Previous State Board of Education Discussion and Action

This agenda item is annually submitted to and approved by the State Board of Education (SBE).

Summary of Key Issue(s)

In accordance with Article 3, Chapter 2, Part 33, Division 4 of the *Education Code*, the SBE must encumber and allocate funds from the State Instructional Materials Fund. The attached materials describe the procedures and recommend a resolution for the tentative determination of encumbrances and allocations from the Instructional Materials Fund for fiscal year 2003-04 and the final determination of encumbrances and allocations from the Instructional Materials Fund for fiscal year 2002-03.

Fiscal Analysis (as appropriate)

The 2003-04 Budget Act provides \$175,000,000 for the Instructional Materials Program, which equates to approximately \$27.57 per pupil using the October 2002 California Basic Educational Data System enrollment.

Attachment(s) to this Agenda Item

- Attachment 1: Tentative Determination of Encumbrances and Allocations of the State Instructional Materials Fund, Fiscal Year 2003-04. (Pages 1-2)
- Attachment 2: State Board of Education Resolution for Fiscal Year 2003-04. (Page 1 of 1)
- Attachment 3: Final Determination of Encumbrances and Allocations of the State Instructional Materials Fund for Fiscal Year 2002-03 (for information only). (Page 1 of 1)
- Attachment 4: State Board of Education Resolution, Fiscal Year 2002-03 (for information only). (Page 1 of 1)

**Tentative Determination of Encumbrances and Allocations
of the State Instructional Materials Fund**

Fiscal Year 2003-04

Annual state funding for the acquisition of instructional materials is provided by an appropriation to the State Instructional Materials Fund. For fiscal year 2003-04, the Budget Act provides \$175,000,000 which equates to approximately \$27.57 per pupil using the October 2002 California Basic Educational Data System enrollment.

To enable the State Board of Education (SBE) to comply with the provisions of the *Education Code* relating to the allocations of the Instructional Materials Fund, the following is presented for consideration:

I. Accessible Instructional Materials - *Education Code* Section 60240(c)(1)

The SBE shall set aside part of the Instructional Materials Fund to pay for the cost of accessible instructional materials (such as braille and large print) to accommodate pupils with visual disabilities pursuant to *Education Code* sections 60312 and 60313. For fiscal year 2003-04, the estimated cost is \$550,000.

II. Reserve to Pay Cost to Replace Materials Lost In Disasters - *Education Code* Section 60240(c)(2)

The SBE may set aside part of the Instructional Materials Fund, in an amount up to \$200,000 each year to pay for the cost of replacing instructional materials that are lost or destroyed by reason of fire, theft, natural disaster, or vandalism. The SBE's current policy is to keep a reserve of \$50,000 in the disaster fund, and limit each school district's claim to a maximum of \$5,000 or a district's insurance deductible amount, whichever is less.

The SBE's currently policy for the disaster fund is to keep a reserve of \$50,000. Since there were no claims filed for disaster in fiscal year 2002-03 to draw down on the \$50,000, an augmentation to this fund is not required for fiscal year 2003-04.

III. Warehousing and Transporting Instructional Materials - *Education Code* Section 60240(c)(3)

The SBE may set aside part of the Instructional Materials Fund for the cost of warehousing and transporting instructional materials it has acquired. A separate

appropriation is provided in the 2003-04 fiscal year. Therefore, no allocation is needed under this section.

IV. Establishing a Per Pupil Allowance - *Education Code* Section 60242(a)

The SBE shall encumber the funds for the purpose of establishing an allowance for each school district, county office of education, state special school, and charter school to purchase instructional materials pursuant to *Education Code* sections 60420-60424, the Instructional Materials Funding Realignment Program.

The allowance will be apportioned in September 2003 and will represent 90 percent of the total entitlement for each local educational agency. The 10 percent remaining balance will be released in August 2004 after the charter schools estimated enrollment data have been adjusted to actual California Basic Educational Data System enrollment data.

**State Board of Education Resolution
for Fiscal Year 2003-04**

**Tentative Determination of Encumbrances and Allocations
of the State Instructional Materials Fund**

WHEREAS, *Education Code* sections 60240 and 60242 require the State Board of Education (SBE) to encumber parts of the State Instructional Materials Fund for use in acquiring and distributing instructional materials, therefore, be it

RESOLVED, that the SBE hereby tentatively encumbers the following amounts of the State Instructional Fund for fiscal year 2003-04:

<i>Education Code</i> Section 60240(c)(1)	To pay for the cost of accessible instructional materials	\$550,000
<i>Education Code</i> Section 60240(c)(2)	To augment the reserve to pay the cost of claims for materials lost or destroyed by reason of fire, theft, natural disaster, or vandalism, to a maximum of \$5,000 per district or a district's insurance deductible amount, whichever is less, per loss occurrence	*\$-0-
<i>Education Code</i> Section 60242(a)	To establish a base allowance of \$27.57 for public schools and state special schools	174,450,000
	TOTAL	\$ 175,000,000

*The State Board's current policy for the disaster fund is to keep a reserve of \$50,000. Since there were no claims filed for disaster in fiscal year 2002-03 to draw down on the \$50,000, an augmentation to this fund is not required for fiscal year 2003-04.

**Final Determination of Encumbrances and Allocations
of the State Instructional Materials Fund
for Fiscal Year 2002-03**

FOR INFORMATION ONLY

Last September 2002, the State Board of Education (SBE) adopted a tentative budget for fiscal year 2002-03. The tentative budget has been adjusted accordingly to reflect the amount appropriated in the 2002 Budget Act. The final allocations are presented below for **information** only.

II. Accessible Instructional Materials – Education Code Section 60240©(1)

The SBE allocated \$550,000 to pay for the cost of accessible instructional materials (such as braille and large print) to accommodate pupils with visual disabilities pursuant to *Education Code* sections 60312 and 60313.

III. Reserve to Pay Cost to Replace Materials Lost In Disasters – Education Code Section 60240©(2)

The SBE's policy for fiscal year 2002-03 was to keep a reserve of \$50,000 in the disaster fund, and limit each school district's claim to a maximum of \$5,000 or a district's insurance deductible amount, whichever is less. The reserve fund was maintained at \$50,000 since no claims were filed during fiscal year 2002-03.

IV. Warehousing and Transporting Instructional Materials – Education Code Section 60240©(3)

For fiscal year 2002-03, a separate appropriation was provided in the Budget Act to fund the Instructional Materials Warehouse.

V. Establishing a Per Pupil Allowance – Education Code Section 60242(a)

For fiscal year 2002-03, the rate per pupil was \$48.24.

**State Board of Education Resolution
Fiscal Year 2002-03
(for information only)**

**Final Determination of Encumbrances and Allocations
of the Instructional Materials Fund**

WHEREAS, *Education Code* sections 60240 and 60242 require the State Board of Education to encumber parts of the State Instructional Materials Fund for use in acquiring and distributing instructional materials, therefore, be it

RESOLVED, that the SBE hereby encumbered the following amounts of State Instructional Materials Fund for fiscal year 2002-03:

<i>Education Code</i> Section 60240(c)(1)	To pay for the cost of accessible instructional materials	\$550,000
<i>Education Code</i> Section 60240(c)(2)	To establish a reserve to pay the cost of materials lost or destroyed by reason of fire, theft, natural disaster, or vandalism	\$-0-
<i>Education Code</i> Section 60242(a)	To establish an allowance of \$48.24 for school districts, charter schools and State special schools students	\$296,575,000
	TOTAL	\$297,125,000



SEPTEMBER 2003 AGENDA

SUBJECT <i>No Child Left Behind Act of 2001 Teacher Requirements (“Highly Qualified Teacher”) – Adopt Proposed Title 5 Regulations.</i>	X	ACTION
	X	INFORMATION
		PUBLIC HEARING

Recommendation:

Approve the proposed permanent regulations regarding No Child Left Behind Act of 2001 Teacher Requirements (“Highly Qualified Teacher”). Direct that CDE staff complete the rulemaking package, in accordance with the Administrative Procedure Act, including, but not limited to, responding to public comments.

Summary of Previous State Board of Education Discussion and Action

At its June meeting, the Board adopted a proposal in concept that would implement the NCLB Teacher Requirements in California, and directed staff to seek technical assistance from the United States Department of Education (USDE) to ensure that the proposal meets all the federal requirements. After receiving advice from the USDE, proposed regulations were approved at the July Board meeting to commence the 45 day public comment period.

Summary of Key Issue(s)

The staff of the State Board of Education (SBE), the Office of the Secretary of Education (OSE), the Commission on Teacher Credentialing (CTC), and the California Department of Education (CDE) have been working for over a year to develop a definition by which California could meet the Teacher Requirements of the No Child Left Behind Act (also known as the Highly Qualified Teacher requirement). The effort has been to meld the requirement of this new federal law with California’s existing teacher preparation and credentialing process, and produce a new system that is as transparent to teachers and administrators as possible while still adhering to the new standards required by NCLB.

The public hearing for these proposed regulations will begin at 1:00 p.m. on Tuesday, September 9, 2003, at 1430 N Street, Room 1101, Sacramento. The 45-day written comment period ends at 5:00 p.m. on Monday, September 8, 2003. Comments received during the public comment period and public hearing will be summarized, including responses, and provided to the Board in a Last Minute Memorandum.

As of August 20, 2003, 3:00 p.m. the department has received a total of 9 public comments (six e-mails and three letters) regarding the proposed Title 5 No Child Left Behind Teacher Requirements. The comments were received from K-12 assistant superintendents, a program director, a principal/superintendent, college and university program administrators, credential students, a parent of a credential student, and K-12 teachers. The following is a summary of issues and concerns forwarded:

Summary of Key Issue(s)

- Six people expressed concern regarding the proposed testing requirements for elementary level teachers.
- One person inquired about the middle school HOUSSE requirements and requested a review of a locally developed form.
- One person expressed concern regarding implementing the proposed HOUSSE regulations under Section 6104 and its impact on time constraints of teacher/principals in Necessary Small Schools and requested alternatives be considered.
- One person recommended a change in Title 5 regulation wording pertaining to persons knowledgeable to evaluate teachers under the HOUSSE and wording pertaining to one time demonstration of compliance.
- One person opposed the regulations for new elementary level teachers stating that elementary teachers have fewer options for demonstrating subject matter competency which requires passing a state test as opposed to secondary level teachers who can demonstrate competency through an undergraduate major or coursework equivalent to an undergraduate major.
- One person requested that credentialing requirements based on previously validated exams approved by the Commission on Teacher Credentialing (CTC) be considered valid now, i.e., tests including the National Teachers Exam (NTE) and the Multiple Subject Assessment for Teachers (MSAT), and liberal studies majors.

A summary of substantive comments (by section number) follows:

Article 2. Elementary Level Teachers

6101. Elementary Teachers.

The regulations should not require current elementary credential students who completed coursework approved for satisfying requirements for a multiple subject credential to be required pass a state test (CSET) as an additional requirement for receiving a multiple subjects credential.

The regulations should not require credentialed elementary teachers who have already satisfied subject matter requirements through a liberal studies major to be required to pass a state test (CSET) to demonstrate subject matter competency.

The proposed regulations place little value on approved coursework in subject matter programs by allowing an option of only passing an examination to demonstrate subject matter competency. Elementary teachers will become increasingly focused on test prep which undermines the other valued aspects of approved subject matter programs such as early field experiences, application of technology, inclusion of critical thinking, and integration of diversity issues.

Response: The federal NCLB Act requires that elementary teachers pass a rigorous State exam to demonstrate subject matter competence. The proposed regulations only identify how the particular test in California will be chosen.

The proposed regulations unfairly provide fewer options for prospective elementary level teachers than secondary level teachers by requiring elementary teachers to pass a state test to demonstrate subject matter competency while prospective secondary level teachers are provided more options including passing a test or completing an undergraduate major or coursework equivalent to an undergraduate major.

Summary of Key Issue(s)

Response: The federal NCLB Act limits elementary teachers demonstration of subject matter competence to passing a rigorous State exam. The proposed regulations only identify how the particular test in California will be chosen.

The proposed regulations should designate previously approved Commission on Teacher Credentialing subject matter exams as meeting the subject matter competency requirements for NCLB.

Response: The proposed regulations do not name the required test or limit it to one test. The proposed regulations clarify that CTC will certify the test(s) in order to conform the NCLB Teacher requirements with California's credentialing requirements.

6102. Elementary Teachers New to the Profession.

The regulations should not require elementary credential students who had selected a CTC approved option of completing coursework to obtain a multiple subject credential and have completed the coursework to now be required to pass a state test as an additional requirement for receiving a credential.

Response: The federal NCLB Act limits elementary teachers demonstration of subject matter competence to passing a rigorous State exam. The proposed regulations only identify how the particular test in California will be chosen.

6103. Elementary Teachers Not New to the Profession.

The regulations should include the National Teachers Exam as an approved test for satisfying the No Child Left Behind teacher requirements.

Response: The proposed regulations do not name the required test or limit it to one test. The proposed regulations clarify that CTC will certify the test(s) in order to conform the NCLB Teacher requirements with California's credentialing requirements.

6104. High Objective Uniform State Standard Evaluation.

The proposed regulations for item (b), page 3, line 8 is ambiguous. It should state that the one-time demonstration of subject matter competence shall be evaluated by a person or persons knowledgeable in the State Academic Content Standards who is trained and approved to complete the teacher evaluation process, as defined by Education Code Sections 44660-44661. (Evaluation and Assessment of Performance of Certificated Employees). In most districts, teacher evaluation is a part of collective bargaining, per this Education Code.

The regulations should include years of experience and coursework taken after a credential is received in the evaluation of teacher qualifications.

The proposed regulations should include an alternative methodology for providing evidence of subject matter competence for Necessary Small School Districts.

General Comments.

None

Fiscal Analysis (as appropriate)

The regulations have no fiscal impact. Please see the Notice of Proposed Rulemaking for additional details.

Attachment(s)

[The Proposed Regulation](#)

[The Initial Statement of Reasons](#)

[The Notice of Proposed Rulemaking](#)

Public Comments received during the public comment period and public hearing will be summarized, with responses, in a Last Minute Memorandum.

1 Title 5. EDUCATION

2 Division 1. State Department of Education

3 Chapter 6. Certificated Personnel

4
5 Add Subchapter 7, Article 1, Section 6100 to read:

6 **Subchapter 7. No Child Left Behind Teacher Requirements**

7 **Article 1. General**

8 **§ 6100. Definitions.**

9 For purposes of No Child Left Behind Teacher Requirements, the following definitions shall
10 apply:

11 (a) Advanced Credentialing: A teacher who has achieved National Board Certification
12 is considered to have Advanced Credentialing.

13 (b) Credential: A Preliminary, Professional Clear or Life Credential, or any teaching credential
14 issued under prior statutes, that authorizes a person to teach in California K-12 schools.

15 (c) Elementary, Middle and High School: The local educational agency shall determine, based on
16 curriculum taught, by school site, or by each grade at the school site, if appropriate, whether a teacher is
17 hired to teach elementary, middle or high school.

18 (d) First Day of School: The first day of school is the first day of school that students
19 report to the school per the district school calendar.

20 (e) Hired: A teacher is hired when they accept employment at the school district. The date a
21 teacher is hired is not affected by a change of assignments or schools within the district. The date a
22 teacher is hired in a district does not affect a teacher's "new" or "not new" to the profession status.

23 (f) Teacher New to the Profession: A teacher is new to the profession if they have graduated from
24 an accredited institution of higher education and received a credential, or began an approved intern
25 program, on or after July 1, 2002.

26 (g) Teacher Not New to the Profession: A teacher is not new to the profession if they graduated
27 from an accredited institution of higher education and received a credential, or were enrolled in, or had
28 completed, an approved intern program before July 1, 2002.

29 NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a)
30 and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December
31 19, 2002.

32
33 Add Article 2, Sections 6101 through 6104 to read:

34 **Article 2. Elementary Level Teachers**

1 **§ 6101. Elementary Teachers.**

2 A teacher who meets NCLB requirements at the elementary level is one who:

3 (1) Holds at least a bachelor's degree, and

4 (2) Is currently enrolled in an approved intern program for less than three years or has a
5 credential, and

6 (3) Meets the applicable requirements in Section 6102 or 6103.

7 NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a)
8 and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December
9 19, 2002.

10 **§ 6102. Elementary Teachers New to the Profession.**

11 A teacher who meets the NCLB requirements and is new to the profession at the
12 elementary level, in addition to having at least a bachelor's degree and either being currently enrolled in
13 an approved intern program for less than three years or holding a credential, must have passed a validated
14 statewide subject matter examination certified by the Commission on Teacher Credentialing.

15 NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a)
16 and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December
17 19, 2002.

18 **§ 6103. Elementary Teachers Not New to the Profession.**

19 A teacher who meets NCLB requirements and is not new to the profession at the elementary
20 level, in addition to having at least a bachelor's degree and either being currently enrolled in an approved
21 intern program for less than three years or holding a credential, must have completed one of the
22 following:

23 (1) A validated statewide subject matter examination certified by the Commission on Teacher
24 Credentialing.

25 (2) In lieu of the high objective uniform state standard evaluation in subsection 3, National Board
26 Certification.

27 (3) A high objective uniform state standard evaluation conducted pursuant to Section 6104 and in
28 conjunction with the teacher's evaluation and assessment pursuant to Education Code section 44662, to
29 determine the teacher's subject matter competence in each of the academic subjects taught by the teacher.

30 NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a)
31 and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December
32 19, 2002.

33 **§ 6104. High Objective Uniform State Standard Evaluation.**

34 (a) The high objective uniform state standard evaluation shall be conducted at the time and by the
35 means utilized to satisfy Education Code section 44662, except that (1) subject matter shall be defined as
36 the State Academic Content Standards for the grades and subjects taught, and (2) competency shall be

1 demonstrated by satisfactorily meeting standards 3 and 5.1 of the California Standards for the Teaching
2 Profession. The demonstration of subject matter competence shall include some combination of the
3 following:

4 (1) Classroom observation,

5 (2) Demonstration of knowledge of the appropriate grade-level and subject State Academic
6 Content Standards, and

7 (3) Portfolio review of lesson plans and student work for one academic year.

8 (b) This one time demonstration of subject matter competence shall be evaluated by a person or
9 persons knowledgeable in the State Academic Content Standards for the grade and subject for which the
10 teacher is demonstrating competency.

11 (c) If the teacher does not satisfactorily meet standards 3 and 5.1 of the California Standards for
12 the Teaching Profession as part of the NCLB evaluation, then subject matter competency shall be
13 demonstrated through completion of the Peer Assistance and Review Program for Teachers or other
14 individualized professional development plan, pursuant to Education Code section 44664, aimed at
15 assisting the teacher to meet standards 3 and 5.1 of the California Standards for the Teaching Profession.

16 NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a)
17 and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December
18 19, 2002.

19
20 *Add Article 3, Section 6110 to read:*

21 **Article 3. Middle and High School Level Teachers**

22 **§ 6110. Middle and High School Teachers.**

23 A teacher who meets NCLB requirements at the middle and secondary levels is
24 one who:

25 (1) Holds at least a bachelor's degree, and

26 (2) Is currently enrolled in an approved intern program for less than three years or has a full
27 credential, and

28 (3) Meets at least one of the applicable requirements in Section 6111 or 6112.

29 NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a)
30 and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December
31 19, 2002.

32 **§ 6111. Middle and High School Teachers New to the Profession.**

33 A teacher who meets NCLB requirements and is new to the profession at the
34 middle and high school levels, in addition to having at least a bachelor's degree and either being currently
35 enrolled in an approved intern program for less than three years or holding a credential in the subject
36 taught, must have passed or completed one of the following for every core subject currently assigned:

1 (1) A validated statewide subject matter examination certified by the Commission on Teacher
2 Credentialing,

3 (2) University subject matter program approved by the Commission on Teacher Credentialing,

4 (3) Undergraduate major in the subject taught,

5 (4) Graduate degree in the subject taught, or

6 (5) Coursework equivalent to undergrad major.

7 NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a)
8 and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December
9 19, 2002.

10 **§ 6112. Middle and High School Teachers Not New to the Profession.**

11 A teacher who meets NCLB requirements and is not new to the profession at the middle and high
12 school levels, in addition to having at least a bachelor’s degree and either being currently enrolled in an
13 approved intern program for less than three years or holding a credential, must have passed or completed
14 one of the following for every core subject currently assigned:

15 (1) A validated statewide subject matter examination certified by the Commission on Teacher
16 Credentialing,

17 (2) University subject matter program approved by the Commission on Teacher Credentialing,

18 (3) Undergraduate major in the subject taught,

19 (4) Graduate degree in the subject taught,

20 (5) Coursework equivalent to undergrad major,

21 (6) Advanced certification or credentialing (National Board Certification), or

22 (7) The high objective uniform state standard evaluation pursuant to Article 2, Section 6104.

23 NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a)
24 and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December
25 19, 2002.

26
27 *Add Article 4, Section 6115 to read:*

28 **Article 4. Teachers Not Meeting NCLB Teacher Requirements**

29 **§ 6115. Teachers Not Meeting NCLB Teacher Requirements.**

30 A teacher does not meet the NCLB teacher requirements for the core academic subject taught if:

31 (1) Teaching with an Emergency Permits, or

32 (2) Teaching with a supplemental authorization (except where the supplemental authorization is
33 based on a major in the subject taught) or a local authorizations for the subject taught, or

34 (3) Teaching with state or local waivers for the grade or subject taught, or

35 (4) Teaching as a pre-intern.

1 NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a)
2 and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December
3 19, 2002.

4
5 *Add Article 5, Section 6120 to read:*

6 **Article 5. One Time Compliance**

7 **§ 6120. One Time Compliance.**

8 Once a school district has determined that a teacher meets the NCLB Teacher Requirements for
9 the grade level and/or subject taught, that teacher will not be required to demonstrate that they meet the
10 requirements again for the same grade level and/or subject taught, even if they are later hired by another
11 school district in California.

12 NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a)
13 and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December
14 19, 2002.

15
16 *Add Article 6, Section 6125 to read:*

17 **Article 6. Teachers from Out-of-State**

18 **§ 6125. Teachers from Out-of-State.**

19 Teachers who have been found to meet subject matter competency requirements of NCLB in
20 another State shall also be considered to have met those requirements for that particular subject and/or
21 grade span in California. California's credentialing reciprocity with other States is not affected by the
22 requirements of NCLB.

23 NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a)
24 and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December
25 19, 2002.

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INITIAL STATEMENT OF REASONS

No Child Left Behind Teacher Requirements

SECTIONS 6100, 6101, 6102, 6103, 6104, 6110, 6111, 6112, 6115, 6120, and 6125.

SPECIFIC PURPOSE OF THE REGULATIONS.

The proposed regulations identify the “rigorous state test” that federal law requires each new to the profession elementary teacher pass, and outlines the “high objective uniform state standard evaluation” that can be used to qualify not new to the profession teachers as “highly qualified.” The proposed regulations also define several key phrases to assist school district in complying with the federal law.

NECESSITY/RATIONALE

Federal law under No Child Left Behind Act (NCLB) requires that all teachers of core academic subjects meet the federal definition of “highly qualified teacher” no later than the end of the 2005-2006 school year. Schools that receive Title I funds are currently required to hire only teachers that meet the federal definition of “highly qualified teacher.” Core academic subjects include English, reading, language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography (NCLB Section 9101).

While federal law defines the requirements for “highly qualified teacher,” some details regarding how the definition is applied in each State must also be determined. Existing State law and these proposed regulations are intended to provide the detail necessary to meet the NCLB Teacher Requirements in California.

The proposed regulations are necessary to implement the requirements of the federal No Child Left Behind Act. Specifically, the proposed regulations are necessary to identify the “rigorous state test” that federal law requires each new to the profession elementary teacher pass, and outline the “high objective uniform state standard evaluation” that federal law provides to qualify not new to the profession teachers as “highly qualified.” The proposed regulations also define several key phrases to assist school districts in complying with the federal law. These details are necessary to assist school districts meet the federal law and allow California to receive and retain federal funding under the federal Title I, Part A.

The proposed regulations are:

Article 1. General

Article 1 provides California specific definitions of key words and phrases in the federal law.

Article 2. Elementary Level Teachers

Article 2 provides California specific details for meeting the federal requirements for “new” and “not new” to the profession elementary teachers.

Article 3. Middle and High School Level Teachers

Article 3 provides California specific details for meeting the federal requirements for "new" and "not new" to the profession middle and high school teachers.

Article 4. Teachers Not Meeting NCLB Teacher Requirements

Article 4 identifies the California permits and authorizations that would not meet the federal requirements.

Article 5. One Time Compliance Article

Article 5 clarifies that compliance with the federal requirements must only be accomplished once per subject or grade span taught.

Article 6. Teachers from Out-of-State

Article 6 clarifies that California will accept another State's determination that a teacher has met the NCLB Teacher Requirements for a particular subject or grade span taught.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The State Board of Education (State Board) did not rely upon any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the State Board.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The State Board has not identified any alternatives that would lessen any adverse impact on small business.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

The State Board has made an assessment and determined that the adoption of the proposed regulations would not have a significant adverse economic impact on any business in the State of California.

7/15/03

CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street; P.O. Box 944272
Sacramento, CA 95814-5901

**TITLE 5. EDUCATION****CALIFORNIA STATE BOARD OF EDUCATION****NOTICE OF PROPOSED RULEMAKING****No Child Left Behind Teacher Requirements**

[Notice published July 25, 2003]

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

The State Board will hold a public hearing beginning at **1:00 p.m. on Tuesday, September 9, 2003**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on Monday, September 8, 2003**. The Board will consider only written comments received by the Regulations Adoption Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
Telephone : (916) 319-0641
E-mail: dstrain@cde.ca.gov

AUTHORITY AND REFERENCE

Authority: Section 12001, Education Code.

Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Federal law under No Child Left Behind Act (NCLB) requires that all teachers of core academic subjects meet the federal definition of “highly qualified teacher” no later than the end of the 2005-2006 school year. Schools that receive Title I funds are currently required to hire only teachers that meet the federal definition of “highly qualified teacher.” Core academic subjects include English, reading, language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography (NCLB Section 9101).

While federal law defines the requirements for “highly qualified teacher,” some details regarding how the definition is applied in each State must also be determined. Existing State law and these proposed regulations are intended to provide the detail necessary to meet the NCLB Teacher Requirements in California.

Specifically, these proposed regulations identify the “rigorous state test” that federal law requires each new to the profession elementary teacher pass, and outlines the “high objective uniform state standard evaluation” that can be used to qualify not new to the profession teachers as “highly qualified.” The proposed regulations also define several key phrases to assist school district in complying with the federal law.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

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

Cost 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 State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (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.

Significant effect on housing costs: None.

Affect on small businesses: The regulations and proposed amendments have no affect on small businesses because they do not relate to small business practices or to interactions between school districts and small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board 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 substance of the proposed regulations should be directed to:

Tom Lugo, Administrator
Professional Development Unit
California Department of Education
1430 N Street
Sacramento, CA 95814
Telephone: (916) 323-6390

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Adoption Coordinator, or to the backup contact person, Najia Rosales, Analyst, at (916) 319-0584.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/regulations>.

Last Minute Memorandum

To: STATE BOARD MEMBERS

Date: September 9, 2003

From: William W. Vasey

Re: ITEM # 28

Subject No Child Left Behind Act of 2001 Teacher Requirements ("Highly Qualified Teacher") Including, but not limited to, Adoption of Proposed Title 5 regulations

Background

At the July 2003 meeting, the State Board initiated the permanent rulemaking process regarding the No Child Left Behind Teacher Requirements. The State Board directed that the public hearing for this rulemaking process be conducted by staff in accordance with subdivision (b) of Section 18460 of Title 5 of the California Code of Regulations.

Report on Public Hearing

Consistent with the requirements of the Administrative Procedure Act, the public hearing regarding the proposed regulations was scheduled for Tuesday, September 9, 2003, at the California Department of Education, 1430 N Street, Room 1101, Sacramento, California, beginning at 1:00 p.m. An audiotape of the public hearing was made, and Maryanna Rickner will provide a copy of the audiotape to any State Board member so desiring.

The public hearing was called to order at 1:10 p.m. on the prescribed date and at the prescribed location. Eight persons provided comments at the public hearing. The public hearing was adjourned at 2:15 p.m.

Twenty-two comments were received during the public comment period, which ended at 5:00 p.m. on Monday, September 8, 2003, and those recorded at the public hearing have been summarized and responses provided to the Board in this memorandum.

As of September 8, 2003 at 5:00 p.m., the department received a total of 22 public comments, including emails and letters, regarding the proposed Title 5 No Child Left Behind Teacher Requirements. The comments were received from K-12 assistant superintendents, a program director, a principal/superintendent, a retired superintendent, a county office of education administrator, a middle school principal, college and university faculty and administrators, credential students, a parent of a credential student, and K-12 teachers. Organizations submitting comments included the California Association for Bilingual Education, the Association of California School Administrators, the California Teachers Association, The California Federation of Teachers, the California Association of Community Organizations for Reform Now (ACORN), Californians for Justice Education Fund, and the National Council of La Raza. At the public hearing on September 9, 2003, testimony was heard from eight individuals, including three public comments that had not been previously submitted in writing during the 45-

day public comment period. These three individuals included a representative from the California Association for Bilingual Education, a school administrator, and a representative from the California Federation of Teachers.

Summary of Public Comments/Key Issues

- Two people expressed concern regarding the limited options for elementary teachers to demonstrate subject matter competence versus those available to secondary teachers.
- Two people expressed concern regarding implementation of the proposed HOUSSE regulations under Section 6104 and its impact on time constraints of teacher/principals in Necessary Small Schools and requested alternatives be considered.
- Three people requested a change in Title 5 regulation wording pertaining to persons knowledgeable to evaluate teachers under the HOUSSE
- Two people requested that Title 5 regulation wording make it clear that a teacher must demonstrate subject matter competency only once for each subject or grade span.
- Six people expressed concern regarding the proposed testing requirements, including requests that examinations prior to CSET be considered valid for the subject matter exam requirement (including the National Teachers Exam, the Multiple Subject Assessment for Teachers, and older exams that were previously acceptable).
- Two people expressed concern that the teacher qualifications include only subject matter competency and do not address pedagogy.
- Five people expressed concern that international teachers may not have been considered.
- Two people expressed concerns regarding the regulations as they apply to middle schools.
- Four people requested that the words “grade span” be substituted for “grade” or “grade level”.
- Two people expressed concern about language fluency of teachers of English Language Learners.
- One person included a comment regarding the need for review of the definition of highly qualified teachers by the Committee of Practitioners.
- Four people expressed concern that the individualized intern certificate would be acceptable.
- Five people included comments regarding the need for CLAD/BCLAD certification in the requirements for teachers.

A summary of the comments and responses by section number follows.

Staff Recommendation

Recommend that staff send out the revised proposed regulations for the 15-day public comment period, and if no objections to the revisions are received during the 15-day public comment period, direct staff to submit the revised rulemaking package to OAL for approval, and if objections to the revisions are received during the 15-day public comment period, direct staff to place the matter on the next State Board agenda for action following consideration of the objections.

FINAL STATEMENT OF REASONS
No Child Left Behind Teacher Requirements

UPDATE OF INITIAL STATEMENT OF REASONS

Subchapter 7, Article 1 — No Child Left Behind Teacher Requirements
Section 6100, 6101, 6103, 6104, 6110, 6112, 6115, 6120, and 6125

The proposed regulations are necessary to implement the requirements of the federal No Child Left Behind (NCLB) Act of 2001. Specifically, the proposed regulations are necessary to identify the “rigorous state test” that federal law requires each new to the profession elementary teacher pass, and outlines the “high objective uniform state standard of evaluation” that can be used to qualify not new to the profession teachers as “highly qualified.” The proposed regulations also define several key phrases to assist school districts in complying with the federal law. These details are necessary to assist school districts to meet the federal law and allow California to receive and retain federal funding under the federal Title I, Part A.

In addition to the public comment period and hearing pursuant to the Administrative Procedures Act, public discussion took place during nine meetings held by the AB 312 No Child Left Behind Liaison Team established to advise the State Superintendent of Public Instruction and the California State Board of Education on matters related to the federal No Child Left Behind Act. (Education Code Section 52058.1)

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF JULY 25, 2003 THROUGH SEPTEMBER 8, 2003 AND THE PUBLIC HEARING, SEPTEMBER 9, 2003.

6102. Elementary Teachers New to the Profession.

Comment: Yumi Soares, student, California State University, Stanislaus, via e-mail, and Mary Reynolds, parent of student, California State University, Sacramento, via letter, both commented that the regulations should not require current elementary credential students who elected to complete coursework in an approved CTC credential program to satisfy requirements for a multiple subject credential to now be required to pass a state test (CSET) as an additional requirement for receiving a multiple subject credential.

Comment: Kimberly Riley, student, California State University, Sacramento, via e-mail commented that the regulations should not require credentialed elementary teachers who have already satisfied subject matter requirements through a liberal studies major to pass a state test (CSET) to demonstrate subject matter competency.

Comment: Kerry Peterson, teacher, via e-mail, commented that as a newly credentialed teacher with a preliminary California CLAD Multiple Subject teaching credential received on February 12, 2003, he has just been informed that he will now need to pass a state test to demonstrate subject matter competency. He further states that these new requirements have caused him not to be eligible for hire at Title I schools this fall due to the availability of test dates.

Response: The proposed regulations comply with the provisions of federal law. The federal NCLB Act requires that elementary teachers new to the profession pass a rigorous State exam to demonstrate subject matter competence. The proposed regulations do not name the required test or limit it to one test. The proposed regulations clarify that the Commission on Teacher Credentialing will certify the test(s) in order to conform the NCLB Teacher Requirements with California's credentialing requirements.

Comment: Michael Weimer, President, California Federation of Teachers provided public and written comment stating that the proposed regulations offer fewer options for elementary teachers than middle or high school teachers. He proposed that the same options be available to both new and not new elementary teachers.

Comment: Karen Neufeld, Fresno Pacific University, via letter, commented that the proposed regulations unfairly provide fewer options for prospective elementary level teachers than secondary level teachers by requiring elementary teachers to pass a state test to demonstrate subject matter competency while prospective secondary level teachers are provided more options including passing a test or completing an undergraduate major or coursework equivalent to an undergraduate major.

Response: The proposed regulations comply with the provisions of the federal NCLB Act that allow more options for middle and high school teachers than elementary teachers. Federal law requires elementary teachers who are new to the profession to pass a rigorous State exam to demonstrate subject matter competence. The federal NCLB Act requires middle and high school teachers who are new to the profession to pass a validated statewide subject matter examination in the subjects taught or have an undergraduate major; a graduate degree; coursework equivalent to an undergraduate major, or advanced certification in the subjects taught. Teachers who are not new may qualify under the HOUSSE option.

Comment: Karen Neufeld, Fresno Pacific University, via letter, commented that the proposed regulations place little value on approved coursework in subject matter programs by allowing an option of only passing an examination to demonstrate subject matter competency. Elementary teachers will become increasingly focused on test prep which undermines the other valued aspects of approved subject matter programs such as early field experiences, application of technology, inclusion of critical thinking, and integration of diversity issues.

Comment: Mary Berliner Cabral, Early Education Systems Engineer, Marian Wright Edelman Institute, San Francisco State University, via e-mail, commented that the use of CSET, the

assessment instrument California uses to measure Highly Qualified teachers, assesses content knowledge only and is a concern because it does not assess pedagogy.

Response: The proposed regulations comply with the provisions of the federal NCLB Act that require teachers to have obtained full state certification. To receive a credential, teachers are required to complete a California Commission on Teacher Credentialing approved college or university teacher preparation or internship program that includes coursework in subject, pedagogy, developing English language skills, computer technology in educational settings; laws, methods, and requirements related to special populations, and field experiences including student teaching.

6103. Elementary Teachers Not New to the Profession.

Comment: J. Rusty Vardy, via e-mail, commented that the regulations should include the National Teachers Exam (NTE); previously approved Commission on Teacher Credentialing subject matter exams; liberal studies degrees, coursework, and years of experience as meeting the subject matter competency requirement for NCLB.

Comment: Dawn Snell, teacher, via e-mail, commented that she hoped the regulations for teacher requirements will include the National Teachers Exam (NTE), coursework taken, and years of experience as counting toward the NCLB teacher requirements.

Response: The proposed regulations comply with the provisions of the federal NCLB Act that allow elementary, middle and high school teachers not new to the profession to satisfy subject matter competency by passing a current or past validated State test or by completing a high objective uniform state standard of evaluation (HOUSSE). The proposed regulations do not name the required tests or limit to one test. Proposed revisions to the regulations include recognition of coursework taken and years of experience in the HOUSSE.

6104. High Objective Uniform State Standard Evaluation.

Comment: Mary McKee, Ed.D. Assistant Superintendent, Educational Services, via letter, commented that the proposed regulation for item (b), page 3, line 8 which states that demonstration of subject matter competence shall be evaluated by a person or persons knowledgeable in the State academic Content Standards for the grade and subject for which the teacher is demonstrating competency appears to be somewhat ambiguous. The regulation should state that the one-time demonstration of subject matter competence shall be evaluated by a person or persons knowledgeable in the State Academic Content Standards who is trained and approved to complete the teacher evaluation process, as defined by Education Code Sections 44660-44661. (Evaluation and Assessment of Performance of Certificated Employees). In most districts, teacher evaluation is a part of collective bargaining, per this Education Code.

Comment: J. Rusty Vardy, via e-mail, commented that the proposed regulations should include an alternative methodology for providing evidence of subject matter competence for the

approximately 152 Necessary Small School Districts throughout the state because it will be difficult and costly for those schools as many have one teaching principal/superintendent and may be required to contract for outside evaluators to complete the NCLB teacher evaluation.

Response: The proposed regulations for teacher requirements comply with the provision of the federal NCLB Act. The regulations state that the HOUSSE is to be conducted at the time and by the means utilized to satisfy Education Code section 44662 (Evaluation and assessment guidelines). A teacher's supervising administrator shall be responsible for overseeing the high objective uniform state standard evaluation. The administrator may consult, if necessary, with a person or persons knowledgeable in the State Academic Content Standards for the grade span or subject in which the teacher is demonstrating subject matter competency. The addition of Part One of HOUSSE in the revisions is intended to be a more time efficient means of demonstrating subject matter competence.

Comment: Barbara Kerr, President, California Teachers Association, via letter, commented that subsection (a) of section 6104 defines subject matter as the State Academic Content Standards for the grades and subjects taught could imply, for elementary teachers not new to the profession, that they must pass the HOUSSE requirement for each grade that they may teach. Ms. Keer suggests that the State Board clarify that "grades" as used in Section 6104 refer to the grade range described in the multiple subject credential to avoid unnecessary burdens on both school districts and teachers in having to re-certify elementary teachers every time they are reassigned to a new grade.

Comment: Sherry Skelly Griffith, Governmental Relations, Association of California School Administrators, via e-mail, commented that ACSA recommends that wherever it is found in the proposed regulations, the term "grade" be changed to "grade span" i.e., K-5 or 6, Middle grades, secondary)

Comment: Michael Weimer, President, California Federation of Teachers provide public and written comment stating that in the proposed regulations, the term "grade level" is ambiguous. He suggested that a definition of "grade level" be included in Section 6100, and that "grade level" refer to any grade in an elementary school, any grade in a middle school, or any grade in a high school.

Response: The State Board agrees with the recommendation. The regulations will be changed to reflect language for "grade spans".

Comment: Barbara Kerr, President, California Teachers Association, via letter, commented that the wording in subsection (a) of section 6104 is ambiguous. In the section describing requirements for "demonstration of subject matter competence, the use of the words "some combination of" and the use of the conjunctive "and" between items 2 and 3 should be resolved to clarify that the teacher will be permitted to demonstrate competence through one of these vehicles, not some combination of all three—1) Classroom observation, 2) Demonstration of

knowledge of appropriate grade level subject State Academic Content Standard, 3) Portfolio review of lesson plans and student work for one academic year

Comment: Michael Weimer, President, California Federation of Teachers provided public and written comment stating that the term “demonstration of knowledge” is ambiguous and should be clarified. The regulations do not state how the demonstration of knowledge is to occur, i.e., what the teacher is required to do to demonstrate the knowledge or what one should look for in the demonstration.

Comment: Sherry Skelly Griffith, Governmental Relations, Association of California School Administrators, via e-mail, commented that it may not be necessary to conduct the HOUSSE evaluation and assessment pursuant to Education Code section 44662 (Stull Act) as proposed in the regulations if experience, coursework, professional development, and service are used.

Response: The State Board agrees with the recommendation. The regulation will be changed to add a part to HOUSSE that recognizes experience coursework, professional development and service. The regulations will also be changed to clarify that the demonstration of subject matter competency will include one or more of the following: 1) Classroom observation, 2) Demonstration of knowledge of appropriate grade level subject State Academic Content Standard, 3) Portfolio review of lesson plans and student work for one academic year.

Comment: Sherry Skelly Griffith, Governmental Relations, Association of California School Administrators (ACSA), via e-mail, commented that the proposed regulations for section 6104. (HOUSSE) should identify that the supervising administrator will be the individual certifying compliance when administering the HOUSSE evaluations. ACSA recommends the following changes:

The high objective uniform state standard evaluation may be conducted at the time and by the means utilized to satisfy Education Code section 44662. Competency can be demonstrated by a combination of prior experience, core academic coursework, standards-aligned professional development, service to the profession in core academic content area(s) and/or direct observation and portfolio assessment. If competency is demonstrated through observation and portfolio assessment it shall be demonstrated by satisfactorily meeting standards 3 and 5.1 of the California Standards for the Teaching Profession. The demonstration of subject matter competence shall include two or more of the following: Interview; written response; observation of instruction; use of student achievement data; lesson and unit plans; teacher analysis of student academic achievement data or other options as determined by the Department of Education. The teacher’s supervising administrator shall consult as necessary with a person or persons knowledgeable in the State Academic Content Standards for the grade span and subject for which the teacher is demonstrating competency. This shall be a one-time demonstration of subject matter competence. If there are no content experts in the subject to be evaluated and the supervising administrator deems it necessary to consult with an expert, then the administrator

shall consult with the Department of Education content experts in the subject or the Department shall refer the administrator to other options funded by the state.

Comment: Tom Addington, Director of Human Resources, Central Union School District, provided public and written comment and asked whether an administrative evaluation that focuses on California Teacher Standards 3 and 5.1 is sufficient or must the evaluator also possess subject matter competence in the academic areas.

Response: The proposed regulations for teacher requirements comply with the provision of the federal NCLB Act. The State Board agrees with the recommendation that the HOUSSE may be conducted at the time and by the means utilized to satisfy Education Code section 44662 (Evaluation and assessment guidelines) and that a teacher's supervising administrator shall be responsible for overseeing the high objective uniform state standard evaluation. The administrator may consult, if necessary, with a person or persons knowledgeable in the State Academic Content Standards for the grade span or subject in which the teacher is demonstrating subject matter competency.

6111. Middle and High School Teachers New to the Profession.

Comment: Juan Ortiz, teacher, via e-mail, commented that it is important for teachers to take classes that prepare them for the subject and grade levels taught. In particular preparation for teaching algebra at middle school level is important. He recommends regulations for the following three areas: 1. An approved program in any subject area in which the emphasis is to teach at a certain level. For example, it is not the same to teach algebra vs. pre-algebra. 2. Pre-practical experiences for teaching. 3. Standardize supplementary credential requirements for all districts and school levels.

Comment: Tom Addington, Director of Human Resources, Central Union School District, provided public and written comment that the proposed regulations for NCLB teacher requirements need to provide small middle and high schools with flexibility in assigning teachers and determining the manner in which each of those teachers meets the NCLB Teacher Requirements. He is concerned about new teachers at small junior high settings that are qualified to teach one subject such as social studies will be unable to be assigned to teach another subject such as one period of language arts.

Response: The proposed regulations comply with the provisions of the federal NCLB Act. The federal NCLB Act requires middle and high school teachers who are new to the profession to pass a validated statewide subject matter examination in the subjects taught or have an undergraduate major; a graduate degree; coursework equivalent to a an undergraduate major, or advanced certification in the subjects taught.

Comment: Michael Weimer, President, California Federation of Teachers provide public and written comment stating that the word "full" at the end of the line 26, page three should be

stricken because it does not occur anywhere else in the document. The definition of “credential” is provided on page 1.

Response: The State Board agrees with the recommendation. The word “full credential” will be changed to “credential”.

6112. Middle and High School Teachers Not New to the Profession.

Comment: Sue Kennerly, Middle School Teacher, via e-mail, commented that she has concerns about how the No Child Left Behind legislation is to be implemented at the middle school level. She teaches history with a multiple subject credential and a supplementary authorization in history and to obtain a single subject credential she would have to quit her job and return for more methodology classes and student teach all over again. She feels this requirement will drive proven teachers into other fields.

Response: The proposed regulations comply with the provisions of the federal NCLB Act. Teachers who are not new to the profession may demonstrate subject matter competency in the same manner as new teachers or through the HOUSSE option outlined in the proposed regulations section 6104.

6120. One Time Compliance.

Comment: Mary McKee, Ed.D., Assistant Superintendent, Educational Services, Glendale Unified School District, via letter, commented that the regulation for One-Time Compliance, Section 6120, page 5, lines 8-11, indicating a teacher will not be required to demonstrate [subject matter] requirements for the same grade level and/or subject even if they are hired by another school district, imposes an unnecessary and additional burden on local educational agencies.

Comment: Barbara Kerr, President, California Teachers Association, via letter, commented that this section 6120 should be clarified in a subsequent guidance letter for the reasons discussed in comments for section 6104 HOUSSE, to clarify that the term grade level refers to the elementary grades and the term subjects as defined for single subject credential refers to a subject matter authorization for a given grade span, e.g., English K-12.

Response: The proposed regulations comply with the provisions of the federal NCLB Act. Districts decide, based on curriculum taught by school site or by each grade at the school site whether a teacher is hired to teach elementary, middle, or high school. Teachers hired to teach in self-contained elementary classrooms must meet the NCLB teacher requirements for the elementary grade span. Teachers hired to teach single subjects in schools designated as middle or high schools must meet the NCLB requirements for middle and high school teachers.

6125. Teachers from Out-of-State

Comment: Sherry Skelly Griffith, Governmental Relations, Association of California School Administrators, via e-mail, commented that the proposed regulations be revised to include California credentialing reciprocity with other states and countries because there may be cases where California enters into a teacher exchange program with another country. ACSA recommends the following changes to section 6125—“California’s credentialing reciprocity with other States and countries is not affected by the requirements of NCLB”.

Comment: Alan J. Young, Chief Executive Officer, on behalf of the Visiting International Faculty Program, vial email, commented that the proposed regulations do not appear to include international exchange teachers wishing to participate in a teaching exchange program in California. Currently, VIF international exchange teachers meet subject matter competency through the formal documentation of their teaching degrees, university subject coursework, years of experience, and lesson plan review during their interviews as well as verified references from their principals of their home country schools. They propose that Article 6 or a similar article include language that allows international educators to be evaluated by a HOUSSSE similar to the one they have developed that will allow US students to continue to be taught by highly qualified and experienced international exchange teachers.

Comment: Norm Kirschenbaum, retired California superintendent, via e-mail, commented on the need to include consideration for the hundreds of International Teachers who come to California each year. Regulations must take into account a district’s ability to access international talent in a reasonable and expedient manner.

Response: The proposed regulations comply with the provisions of the federal NCLB Act. Elementary middle and high school teachers of core academic subjects who have been found to meet subject matter competency requirements of NCLB outside of California shall also be considered to have met those requirements for that particular subject or grade span in California.

6115. Teachers Not Meeting NCLB Requirements.

Comment: Raul Yzaguirre, President, National Council of La Raza (NCLR), via e-mail, commented on behalf of NCLR that the State Board of Education should reject the proposed definition of “highly qualified teachers being adopted pursuant to the federal No Child Left Behind Act NCLB). The NCLB defines highly qualified teacher as a teacher who has obtained full state certification or passed the State teacher licensing exam and hold a license to teach in the state. With respect to teachers instructing English Language Learner (ELL) students, states must certify that all teachers in language instruction educational programs for ELL students are fluent in English and any other language used by that program, including written and oral communication skills. California’s plan does neither. The plan does not require local educational agencies to certify that all teachers are fluent in any other language used in instructing ELL students. Teachers should possess the CLAD and BLCLAD credentials. Additionally, the plan includes individual on emergency permits to count as “highly qualified

teachers” under a new certificate issued by the Commission on Teacher Credentialing called the individualized intern certificate.

Comment: Jenny Huang, Abdi Soltani and Chris Jones on behalf of the California for Justice Education (CFJ) and the California Association of Community Organizations for Reform Now (ACORN), provided public and written comment stating that the California State Board of Education reject the definition of highly qualified teachers pursuant to the No Child Left Behind Act and modify the proposed regulations accordingly. The following three reasons were provided:

- I. The definition will have a disproportionately harmful impact on students of color and poor students by allowing teachers who are interns and those with provisional interns certificates and emergency permit teachers to teach in schools serving predominately low-income students and students of color;
- II. The definition has not been reviewed by a committee of practitioners as required by federal law; and
- III. The proposed definition fails to incorporate within its definition additional qualities that made a teacher highly qualified including ability teach and a passion for teaching, training in pedagogy, and the ability to motivate students and foster relationships, and experience working with diverse communities and students. In addition to possessing a full credential, teachers should have the additional requirements of CLAD and BCLAD certification depending on the teaching setting. The CFJ and ACORN urge the State Board to reject the proposed definition of “highly qualified” teachers and modify the proposed regulations accordingly.

Comment: Martha Diaz, provided public comment and Maria Quezada, Ed., D., Executive Director, provided written comment on behalf of the California Association for Bilingual Education (CABE) stating that the State Board of education disapprove and reject the proposed definition of highly qualified teachers proposed for adoption pursuant to the federal No Child Left Behind Act due to the following reasons:

- The proposed NCLB teacher requirement does not include a BCLAD certificate for those teachers instructing English Learners in an alternative bilingual program
- Certification that all teachers teaching in language instruction educational programs for English Learners are fluent in English and any other language used by that program (including written and oral communication skills) is not included as required by federal law.
- Interns who have not completed their training would be deemed as “highly qualified teachers”.
- CABE is opposed to including in the definition teachers with “emergency credentials” or “interns”. We believe they should only be deemed highly qualified after they have completed their intern program.

Response: The proposed regulations comply with the provisions of the federal NCLB Act that requires local educational agencies to ensure that teachers have obtained full state certification as

a teacher (including certification obtained through alternative routes to certification) and have not had certification or licensing waived on an emergency, temporary, or provisional basis. Sections 6100-6125 of the Title 5 regulations address the federal requirements in Title I, Part A for demonstrating subject matter competence and do not address Title III subgrant requirements. Each eligible entity receiving Title III funds must include in its plan, a certification that all teachers in any language instruction educational program for limited English proficient children are fluent in English and any other language used for instruction.

A teacher does not meet the NCLB teacher requirements for the core academic subject taught if the teacher is (1) Teaching with an Emergency Permit, (2) Teaching with a supplemental authorization (except where the supplemental authorization is based on a major in the subject taught) or a local authorization for the subject taught, or (3) Teaching with state or local waivers for the grade or subject taught, or (4) Teaching as a pre-intern. All of California's Intern credentials and certificates meet the requirements of NCLB legislation. Section 200.56 Definition of "highly qualified teacher," (B) (2) (ii) states that a teacher meets the NCLB requirements if the teacher is participating in an alternative route to certification program. In California, internships allow an individual to be the teacher of record while completing an organized professional preparation program. There are two distinct types of internship programs. University internships are cooperative programs between a university and an employing district that are administered by the university. District internships are administered by employing school districts. Both types of internship programs result in a preliminary or professional clear credential. Intern credential and Intern certificate holders must meet the following requirements: 1) A bachelor's degree, 2) subject matter competence as defined by the Commission on Teacher Credentialing, 3) pass the California Basic Educational Skills Test (CBEST) and 4) be enrolled in a Commission-accredited teacher preparation program at the time of application for the Credential or Certificate. The same set of program standards and candidate outcomes govern both Intern and Traditional Teacher Preparation Program. Individualized Internship Certificates are granted to individuals who have completed subject matter competence and are admitted to a teacher preparation program. The college or university and the employer are required to provide supervision for those individuals on the Individualized Internship Certificate.

General Comments.

Comment: Marci Jenkins, Ed.D., Administrator, Sonoma County Office of Education, via e-mail, commented that it is unclear whether the proposed regulations have a provision for administrators with clear life or renewable teaching credentials to return to teaching prior to retirement or after retirement.

Response: The proposed regulations provide the options for not new elementary, middle and high school teachers holding current or prior California credentials to meet the NCLB teacher requirements through the HOUSSE option outlined in section 6104.

Comment: Christine Williams, teacher, via e-mail commented that what do training and education matter if there are overcrowded classrooms or schools, limited library sources, materials, and support staff. It is difficult for teachers who are having to be re-educated for every new trend. They are exhausted by the demands on their time and money outside the classroom. Mandates for improving education should be backed up with money necessary both to implement them and bring them to fruition.

Comment: Carole Hiltman, Middle School Principal, via e-mail, commented that although the number one factor in raising student achievement is qualified personnel (teachers), some teachers who have degrees and credentials and possess content knowledge, are not highly qualified due to other important factors related to successful teaching such as classroom management, professional growth, curriculum implementation, and rapport with students, parents, and colleagues. To disallow credentialed teachers the opportunity to obtain an authorization or waiver to teach in a new subject area while completing coursework for that subject would be devastating to education, would rob students of the opportunity to work with many highly qualified teachers, and would make running a secondary school a nightmare for both small remote districts and for inner city district staffing of schools.

Response: The proposed regulations are presented to comply with the provisions of federal NCLB Act which requires elementary, middle and high school teachers to meet the NCLB highly qualified teacher requirements as a condition of State and local educational agency funding.

Comment: Karen Valdez, for Dr. Joanne Cameron, Assistant Superintendent for Human Resources, Santa Maria-Bonita School District via e-mail forwarded a copy of the district's evaluation procedures and asked if the district could use the procedures to qualify teachers under the NCLB HOUSSE option.

Response: The requirements for the uniform state standard of evaluation (HOUSSE) for verification of subject matter competency for teachers who are not new to the profession is indicated in section 6104 of the proposed regulation.

Title 5. EDUCATION
Division 1. State Department of Education
Chapter 6. Certificated Personnel

Add Subchapter 7, Article 1, Section 6100 to read:

Subchapter 7. No Child Left Behind Teacher Requirements

Article 1. General

§ 6100. Definitions.

For purposes of No Child Left Behind Teacher Requirements, the following definitions shall apply:

(a) Advanced Credentialing: A teacher who has achieved National Board Certification is considered to have Advanced Credentialing.

(b) Credential: A Preliminary, Professional Clear or Life Credential, or any teaching credential issued under prior statutes, that authorizes a person to teach in California K-12 schools.

(c) Elementary, Middle and High School: The local educational agency shall determine, based on curriculum taught, by school site, or by each grade at the school site, if appropriate, whether a teacher is hired to teach elementary, middle or high school.

(d) First Day of School: The first day of school is the first day of school that students report to the school per the district school calendar.

(e) Hired: A teacher is hired when they accept employment at the school district. The date a teacher is hired is not affected by a change of assignments or schools within the district. The date a teacher is hired in a district does not affect a teacher's "new" or "not new" to the profession status.

(f) Teacher New to the Profession: A teacher is new to the profession if they have graduated from an accredited institution of higher education and received a credential, or began an approved intern program, on or after July 1, 2002.

(g) Teacher Not New to the Profession: A teacher is not new to the profession if they graduated from an accredited institution of higher education and received a credential, or were enrolled in, or had completed, an approved intern program before July 1, 2002.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

Add Article 2, Sections 6101 through 6104 to read:

Article 2. Elementary Level Teachers

§ 6101. Elementary Teachers.

A teacher who meets NCLB requirements at the elementary level is one who:

(1) Holds at least a bachelor's degree, and

(2) Is currently enrolled in an approved intern program for less than three years or has a credential, and

(3) Meets the applicable requirements in Section 6102 or 6103.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

§ 6102. Elementary Teachers New to the Profession.

A teacher who meets the NCLB requirements and is new to the profession at the elementary level, in addition to having at least a bachelor's degree and either being currently enrolled in an approved intern program for less than three years or holding a credential, must have passed a validated statewide subject matter examination certified by the Commission on Teacher Credentialing.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

§ 6103. Elementary Teachers Not New to the Profession.

A teacher who meets NCLB requirements and is not new to the profession at the elementary level, in addition to having at least a bachelor's degree and either being currently enrolled in an approved intern program for less than three years or holding a credential, must have completed one of the following:

(1) A validated statewide subject matter examination certified by the Commission on Teacher Credentialing.

~~(2) In lieu of the high objective uniform state standard evaluation in subsection 3, National Board Certification.~~

~~(2)~~(3) A high objective uniform state standard evaluation conducted pursuant to Section 6104 and in conjunction with the teacher's evaluation and assessment pursuant to Education Code section 44662, to determine the teacher's subject matter competence in each of the academic subjects taught by the teacher.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

§ 6104. High Objective Uniform State Standard Evaluation.

(a) The high objective uniform state standard evaluation shall consist of two parts. The first shall be a summation of (i) years of experience teaching in the grade span or subject, (ii) core academic coursework in assigned grade span or subject, (iii) in-depth standards aligned professional development, and (iv) service to the profession in the relevant core academic content area. In no event shall (i) years of experience account for more than half of the total necessary to demonstrate subject matter competency. The second part shall consist of direct observation and portfolio assessment in the grade span or subject taught. The second part of the high objective uniform state standard evaluation will only be conducted if Part One does not identify sufficient experience, coursework, professional development or service to demonstrate subject matter competence.

(b)(a) The high objective uniform state standard evaluation **observation and portfolio section (Part Two) may shall be conducted at the time and by the means utilized to satisfy Education Code section 44662, except that (1) subject matter shall be defined as the State Academic Content Standards for the grades and subjects taught, and (2) competency shall be demonstrated by satisfactorily meeting standards 3 and 5.1 of the California Standards for the Teaching Profession. The demonstration of subject matter competence shall include ~~some combination~~ **one or more** of the following:**

(1) Classroom observation,

(2) Demonstration of knowledge of the appropriate grade-level and subject State Academic Content Standards, and

(3) Portfolio review of lesson plans and student work for one academic year.

(b) This one time demonstration of subject matter competence shall be evaluated by a person or persons knowledgeable in the State Academic Content Standards for the grade and subject for which the teacher is demonstrating competency.

(c) A teacher's supervising administrator shall be responsible for overseeing the high objective uniform state standard evaluation, and shall consult, if necessary, with a person or persons knowledgeable in the State Academic Content Standards for the grade span or subject for which the teacher is demonstrating subject matter competency. A teacher must demonstrate subject matter competency only once for each grade span or subject taught.

(d)(e) If the teacher does not satisfactorily meet standards 3 and 5.1 of the California Standards for the Teaching Profession as part of the NCLB evaluation, then subject matter competency shall be demonstrated through completion of the Peer Assistance and Review Program for Teachers or other individualized professional development plan, pursuant to Education Code section 44664, aimed at assisting the teacher to meet standards 3 and 5.1 of the California Standards for the Teaching Profession.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

Add Article 3, Section 6110 to read:

Article 3. Middle and High School Level Teachers

§ 6110. Middle and High School Teachers.

A teacher who meets NCLB requirements at the middle and secondary levels is one who:

(1) Holds at least a bachelor's degree, and

(2) Is currently enrolled in an approved intern program for less than three years or has a full credential, and

(3) Meets at least one of the applicable requirements in Section 6111 or 6112.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

§ 6111. Middle and High School Teachers New to the Profession.

A teacher who meets NCLB requirements and is new to the profession at the middle and high school levels, in addition to having at least a bachelor's degree and either being currently enrolled in an approved intern program for less than three years or holding a credential in the subject taught, must have passed or completed one of the following for every core subject currently assigned:

(1) A validated statewide subject matter examination certified by the Commission on Teacher Credentialing,

(2) University subject matter program approved by the Commission on Teacher Credentialing,

(3) Undergraduate major in the subject taught,

(4) Graduate degree in the subject taught, or

(5) Coursework equivalent to undergrad major.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

§ 6112. Middle and High School Teachers Not New to the Profession.

A teacher who meets NCLB requirements and is not new to the profession at the middle and high school levels, in addition to having at least a bachelor's degree and either being currently enrolled in an

approved intern program for less than three years or holding a credential, must have passed or completed one of the following for every core subject currently assigned:

(1) A validated statewide subject matter examination certified by the Commission on Teacher Credentialing,

(2) University subject matter program approved by the Commission on Teacher Credentialing,

(3) Undergraduate major in the subject taught,

(4) Graduate degree in the subject taught,

(5) Coursework equivalent to undergrad major,

(6) Advanced certification or credentialing (National Board Certification), or

(7) The high objective uniform state standard evaluation pursuant to Article 2, Section 6104.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

Add Article 4, Section 6115 to read:

Article 4. Teachers Not Meeting NCLB Teacher Requirements

§ 6115. Teachers Not Meeting NCLB Teacher Requirements.

A teacher does not meet the NCLB teacher requirements for the core academic subject taught if:

(1) Teaching with an Emergency Permits, or

(2) Teaching with a supplemental authorization (except where the supplemental authorization is based on a major in the subject taught) or a local authorizations for the subject taught, or

(3) Teaching with state or local waivers for the grade or subject taught, or

(4) Teaching as a pre-intern.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

Add Article 5, Section 6120 to read:

Article 5. One Time Compliance

§ 6120. One Time Compliance.

Once a school district has determined that a teacher meets the NCLB Teacher Requirements for the grade level ~~span~~ and/or subject taught, that teacher will not be required to demonstrate that they meet

the requirements again for the same grade **span** level and/or subject taught, even if they are later hired by another school district in California.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

Add Article 6, Section 6125 to read:

Article 6. Teachers from Out-of-State

§ 6125. Teachers from Out-of-State.

Teachers who have been found to meet subject matter competency requirements of NCLB ~~in another State~~ **outside of California** shall also be considered to have met those requirements for that particular subject and/or grade span in California. California's credentialing reciprocity ~~with other States~~ is not affected by the requirements of NCLB.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.



SEPTEMBER 2003 AGENDA

SUBJECT Approval of 2003-2004 Consolidated Applications	X	ACTION
		INFORMATION
		PUBLIC HEARING

Recommendation:

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the 2003-2004 Consolidated Application (Con Apps) submitted by Local Educational Agencies (LEAs).

Summary of Previous State Board of Education Discussion and Action

To date, the SBE has approved Con Apps for 64 LEAs. This is the third year LEAs have completed, and submitted the Con App via a software package downloaded from the Internet. This mechanism substantially decreased calculation errors and the time needed for review and approval.

Each year the CDE, in compliance with *California Code of Regulations* Title 5, Section 3920, recommends that SBE approve applications for funding Consolidated Categorical Aid Programs submitted by LEAs.

There are 17 state and federal programs that LEAs may apply for in the Con App. Approximately \$3.2 billion is distributed annually through the Con App process. The state funding sources include: School Improvement Program, Economic Impact Aid (which is used for State Compensatory Education (SCE) and/or English Learners), Miller-Unruh, Tobacco Use Prevention Education, 10th Grade Counseling, Peer Assistance Review, Instructional Time and Staff Development Reform, and School Safety (AB 1113). The federal funding sources include: Title I, Part A Basic Grant (Low Income); Title I, Part A (Neglected); Title I, Part D, (Delinquent); Title II, Part A (Teacher Quality); Title II, Part D (Technology); Title III, Part A (LEP Students); Title IV, Part A (SDFSC); and Title V, Part A (Innovative); and Title VI, Part B (Rural, Low-Income).

Summary of Key Issue(s)

Consolidated Applications are presented to SBE for approval after they have been received and reviewed. CDE recommendation is based upon application completeness and the status of outstanding compliance issues. CDE provides the State Board of Education with two types of approval recommendations. Regular approval is recommended when an LEA has submitted a correct and complete Consolidated Application, Part I and have no serious noncompliant issues over 365 days. Conditional approval is recommended when an LEA has submitted a correct and complete Consolidated Application, Part I, but has one or more serious noncompliant issues over 365 days. Conditional approval provides authority to the LEA to spend their categorical funds on the condition that they resolve or make significant progress toward resolving noncompliant

Summary of Key Issue(s)

issues. In extreme cases, conditional approval may include the withholding of funds. In September, CDE recommends conditional approval for 35 LEAs which have noncompliant issues over 365 days. With the exception of three LEAs, these noncompliant issues are related to services for English learners. In most cases, a compliance review found a lack of English language development or insufficient access to the core curriculum for English learners.

In summary, CDE recommends regular approval for 1,122 LEAs which represents the distribution of \$2.1 billion in categorical program funds for School Year 2003-04. CDE also recommends conditional approval for 35 LEAs which represent \$600 million in categorical program funds for School Year 2003-04. There are currently no LEAs recommended for a withholding of funds. In total, 1,157 LEAs are being presented to the SBE in September representing a total of \$2.7 billion in categorical funds for School Year 2003-04.

Fiscal Analysis (as appropriate)

None.

Attachment(s)

Attachment 1 List of Consolidated Applications Recommended for Regular Approval
(Pages 1-42) (Not available for Web posting.)

Attachment 2 List of Consolidated Applications Recommended for Conditional Approval
(Pages 1-2) (Not available for Web posting.)

Last Minute Memorandum

To: STATE BOARD MEMBERS

Date: 9-08-03

**From: Geno Flores, Deputy Superintendent
Assessment and Accountability Branch**

Re: ITEM #29

Subject Approval of 2003-2004 Consolidated Applications

This memorandum is to inform the SBE that three school districts were placed incorrectly on the status lists regarding approval of their 2003-04 Consolidated Applications. Compton Unified, Pittsburg Unified, and Grant Joint Union High School Districts should be moved from the Regular Approval list to the Conditional Approval list. This change results in the following totals presented to the SBE in September:

Total LEAs presented to the SBE in September: 1,157 LEAs

Total LEAs recommended for Regular Approval: 1,119 LEAs receiving \$ 2,080,596,751

Total LEAs recommended for Conditional Approval: 38 LEAs receiving \$ 644,622,227

Districts receiving Conditional Approval will be notified that they must resolve their issues of noncompliance or risk recommendation for the withholding of funds related to those noncompliant issues at a subsequent State Board of Education (SBE) meeting. None of the school districts presented at the September SBE meeting are recommended for the withholding of funds at this time. At the March SBE meeting, CDE staff will provide a progress report regarding the compliance status of the districts receiving Conditional Approval.

GRANT PAYMENT LIST

FY 2003/2003

INDEX 0250, PCA 23306

CO.	GRANT NUMBER				LEA	AMOUNT	COUNTY TREASURER	COUNTY TOTAL
	FY	PCA	CDS#	SUFFIX				
15	02	23306	1015	00	Kern County Supt of Schools	\$5,424,000.00	KERN	\$5,424,000.00
					TOTAL	\$5,424,000.00		\$5,424,000.00

GENERAL WAIVER COVER SHEET

CALIFORNIA STATE BOARD OF EDUCATION

SEPTEMBER 2003 AGENDA

Item No. WC-1

TITLE: Request by various districts to waive <i>Education Code</i> (EC) Section 51451, regarding the method of qualifying this year's high school seniors for a Golden State Seal Merit Diploma.	<input type="checkbox"/> ACTION <input type="checkbox"/> INFORMATION <input type="checkbox"/> PUBLIC HEARING <input checked="" type="checkbox"/> CONSENT
CDSIS: See list attached	

RECOMMENDATION:

The Department recommends:

Approval, on the condition that the districts have certified that all students submitted to Education Data Systems, Inc. (EDS, Inc.) have met either the existing requirements to be eligible for the Golden State Merit Seal Diploma, or the requirements of the 2003 Senior Waiver

Summary of Previous State Board of Education Discussion and Action:

In January 2003, the CDE posted a waiver process for a waiver of English language arts Golden State Exam (GSE) requirement, because at the time this was the only exam not available to this year's seniors.

The current year budget act then eliminates all the other GSE administration for this year. At the April 9, 2003, State Board of Education (SBE) meeting members approved the method described by the California Department of Education for a Golden State Exam "Senior Waiver Process."

Summary of Key Issue(s):

The *Education Code* (EC) Section involved in this waiver is:

EC 51451. *A student who meets the following requirements shall qualify for a Golden State Seal Merit Diploma:*

- (a) *The completion of all requirements for a high school diploma.*
- (b) *A demonstration of the mastery of the curriculum in at least six subject matter areas, four of which shall be mathematics, English language arts, science, and United States history, with the remaining two subject matter areas selected by the student.*

The 2003 Senior Waiver criteria are described on the attached "sample" certification, and all districts making a request this time have certified to submit only names of students who have met the requirements of EC 51451, or the 2003 Senior Waiver.

GENERAL WAIVER REQUEST- Golden State Seal Merit Diploma

GW-1 GSE (05/03) <http://www.cde.ca.gov/waiver/>

Page 1 of 2

To expedite, send copy by FAX (916) 319-0117
 Waiver Office, California Department of Education
 1430 N Street, Suite 5602
 Sacramento, CA 95814

CDS CODE					

LEA:	Contact/recipient of approval/denial notice:	Contact Person's E-Mail Address:
Address: (City) (State) (ZIP) CA	Phone (and extension, if necessary): () - x Fax Number: () -	
Period of Request: (month/day/year) For: 2002-2003 school year	Local Board Approval date: (Required)	Date of Public Hearing: (Required)

LEGAL CRITERIA

1. Under the General Waiver Authority of Education Code 33050-33053, the particular Education Code or California Code of

Topic of the waiver: Golden State Seal Merit Diploma; Golden State Exam requirement

***E.C. 51451 Qualifications for diploma.** A student who meets the following requirements shall qualify for a Golden State Seal Merit Diploma:*

(a) The completion of all requirements for a high school diploma.

(b) A demonstration of the mastery of the curriculum in at least six subject matter areas, four of which shall be mathematics, English language arts, science, and United States history, with the remaining two subject matter areas selected by the student.

2. Position of the Bargaining Unit. Does the district have any employee bargaining units? No Yes If yes, please complete required information below:

Date(s) the bargaining unit(s) was (were) consulted: _____

Name of bargaining unit persons(s) consulted: : _____

The position(s) of the bargaining unit(s) was/were: Neutral Support Oppose *(Please summarize below)*

Comments (if appropriate): _____

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? Other: _____ *(Please summarize below.)*

4. District/Parent Advisory Committee: Please identify the council(s) or committee that reviewed this waiver:

_____ Date _____

There were objection(s) *(Please summarize the objection(s))* _____

No Objections

GENERAL WAIVER REQUEST

GW-1 GSE (01/03)

Page 2 of 2

5. Desired outcome/rationale.

Due to cancellation of the spring administration of the Golden State Examinations (GSEs) as a part of the current year budget cuts, many seniors are not able to complete the following requirement as of EC 51451:

To be eligible for the 2003 Golden State Diploma, seniors must:

- 1) Be receiving a high school diploma from their district.
- 2) Have earned achievement levels of 4 (recognition), 5 (honors), or 6 (high honors) on **six Golden State Examinations including U.S. history; reading/literature or written composition; a mathematics exam; a science exam; and two other exams of the student's choice.**

GSE subjects included:

Reading/Literature, Written Composition, First-year Algebra, Geometry, High School Mathematics, Biology, Chemistry, Physics, Second-year Coordinated Science, U.S. History, Economics, Government/Civics, Second-year Spanish Language.

Therefore, the State Board of Education will consider a General Waiver, called the Senior Waiver, to **also** allow students to be certified "as meeting the GSE requirements," provided that districts certify that students they recommend for the Golden Seal Merit Diploma meet the following requirements:

2003 Senior Waiver: This waiver is available to seniors who were prevented from meeting the above requirements due to GSE program reductions.

To be eligible for the 2003 Golden State Diploma, seniors must:

- 1) Be receiving a high school diploma from their district.
- 2) Have earned achievement levels of 4 (recognition), 5 (honors), or 6 (high honors) on **four or more** of the six required Golden State Examinations.
- 3) Be granted a waiver by the State Board of Education (SBE) to **use ONLY up to two 2002 California Standards Tests (CSTs), with scale scores no lower than 350**, to meet the subject-area requirements identified in Option ONE, number 2. To obtain a waiver, a CST scale score may be used only if the student **has not previously taken the GSE** for which the CST will substitute. The following are the CST's that may be used for this waiver: Grade 11 English Language Arts, Grade 11 History/Social Science (United States History), High School Mathematics, Algebra I, Algebra II, Geometry, Integrated Mathematics 1, 2, or 3, Biology, Chemistry, Physics, Earth Science.
- 4) Students must still have achieved GSE recognition or CST's with scale scores no lower than 350 for a **total of six subject matter areas, four of which shall be mathematics, English language arts, science, and United States history**, with the remaining **two subject matter areas selected** by the student.

CERTIFICATION:

• **I request that ALL qualifying 2002-03 graduates in our district be granted a waiver under the criteria of the 2003 Senior Waiver.**

• *I certify that all students submitted to Education Data Systems, Inc. (EDS, Inc.) have met either the existing requirements to be eligible for the Golden State Merit Seal Diploma, or the requirements of the 2003 Senior Waiver*

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Signature:	Title: Administrator, CDE Waiver Office	Date:

Golden State Examination Senior Waiver Certification

Waiver #	LEA	Local Board Approval	Certification Received
CDSIS-17-7-2003	Bellflower Unified SD	6/26/2003	6/26/2003
CDSIS-10-7-2003	Manhattan Beach USD	7/9/2003	7/9/2003
CDSIS-25-7-2003	Oceanside USD	7/22/2003	7/22/2003
CDSIS-23-7-2003	Palos Verdes Peninsula USD	7/24/2003	7/24/2003
CDSIS-2-8-2003	Placentia-Yorba Linda USD	6/17/2003	6/17/2003
CDSIS-24-7/2003	San Jose Unified SD	6/5/2003	6/5/2003
CDSIS-33-7-2003	Temecula Valley USD	8/5/2003	8/5/2003
CDSIS-15-7-2003	Woodland Joint USD	6/12/2003	6/12/2003

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
SEPTEMBER 2003 AGENDA
Item No. WC-2

<p>TITLE: Request by two school districts for a retroactive waiver of <i>Education Code</i> (EC) Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. The district had an audit finding for fiscal year 2001-2002 that they 1) failed to properly notice (10 days) the public hearing and/or 2) failed to post the notice in the required three public places.</p> <p>CDSIS: 51-6-2003 – Montecito Union School District 53-5-2003 – Snelling Merced Falls School District</p>	<p>_____ ACTION _____ INFORMATION _____ PUBLIC HEARING <u> X </u> CONSENT</p>
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RECOMMENDATION:

The Department recommends: Approval

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education (SBE) has heard and approved a policy developed by the department of Instructional Materials Sufficiency Waivers of Retroactive audit findings. None of these districts have had a prior year finding and waiver of this type, so this goes to consent.

Summary of Key Issue(s):

During audits for fiscal year 2001-2002, it was discovered that the above local educational agencies did not hold the public hearing notice of sufficiency of instructional materials as required by EC Section 60119.

Since then, the local educational agencies have held a fully compliant hearing and determined that they have sufficient instructional materials for each pupil in each school in the district. California Department of Education (CDE) staff verified all other requirements of the Specific Waiver request and none of the local educational agencies have had a waiver of this education code before for the public hearing and ten day notice requirements in the 1997-98, 1998-99, 1999-00 or 2000-01 years. Without the waiver, the two local educational agencies will have to return **\$42,054** to CDE.

Therefore, since the local educational agencies has met the requirements for fiscal year 2002-2003, and agrees to comply with EC Section 60119 and ensure that the notice of public hearing is posted for ten days, and in three public places, CDE recommends approval of this waiver request.

Authority for the waiver: EC Section 41344.3

Effective dates of request: 7/1/01 to 6/30/02 Audit Year

Fiscal Analysis (as appropriate): This waiver if approved will relieve the district of **\$42,054** in total penalties.

Background Information:

Waiver request forms and supporting documents are available for inspection in the Waiver Office.

Failure to Give Ten days Notice of the Public Hearing on the Sufficiency of Textbooks and Instructional Materials (within the 2001-2002 fiscal year)

CDSIS – 51-6-2003 – Montecito Union School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$36,682 in Schiff-Bustamante and Instructional Materials funds.
- The district did not notice the public hearing for the ten days as required by *Education Code* (EC) Section 60119, instead they only posted the notice for five days.
- The district has since had a fully compliant hearing on April 22, 2003 and is now fully aware of the requirement.
- CDE staff verified all other requirements of the Specific Waiver request.

Failure to Post the Notice of the Public Hearing in Three Public Places on the Sufficiency of Textbooks and Instructional Materials (within the 2001-2002 fiscal year)

CDSIS – 53-5-2003 – Snelling Merced Falls School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$5,372 in Schiff-Bustamante and Instructional Materials funds.
- The district did not post the notice of the public hearing in three public places as required by *Education Code* (EC) Section 60119, instead they only posted the notice in two public places. This district only has 80 students and is located in a very small town with few places to post public notices. The person responsible for the posting of notices only placed the notice at the district office and the store, omitting to post a notice at one of the other two public places available.
- The district has since had a fully compliant hearing on April 15, 2003 and is now fully aware of the requirement.
- CDE staff verified all other requirements of the Specific Waiver request.

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
SEPTEMBER 2003 AGENDA
Item No. WC-3

<p>TITLE: Sacramento City Unified School District is requesting to waive <i>Education Code</i> (EC) Section 56366.1(g), which would allow New Dimension Learning Academy to submit their renewal application outside the August 1 - October 31 timeline.</p> <p>CDSIS: 5-7-2003</p>	<p>_____ ACTION _____ INFORMATION _____ PUBLIC HEARING _____ X CONSENT</p>
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RECOMMENDATION:

The Department recommends: Approval

Summary of Previous State Board of Education Discussion and Action:

Requests to waive the annual application timeline (August 1 through October 31) by a nonpublic school or agency have been presented to the State Board in the past. The SBE Waiver Policy #00-003 evaluation guidelines and the receipt and review of the annual application forms from the NPS/A are used in reviewing this type of waiver.

Summary of Key Issue(s):

The nonpublic school (NPS) missed the 2003 renewal deadline for annual certification due to a change in staff. The NPS is now aware of the annual renewal period. The 2003 Application Update form and certification fee was received in the Office of Nonpublic Schools on April 14, 2003. This is a first-time occurrence.

Authority for the waiver: EC Section 56101

Bargaining unit(s) consulted on: N/A

Position of bargaining unit (choose only one):

Neutral Support Oppose

Name of bargaining unit representative:

Local board approval date: _____

Effective dates of request: 11/1/02 - 10/31/03

Fiscal Analysis (as appropriate): No know fiscal impact.

Background Information:

Waiver request forms and supporting documents are available in the Waiver Office.

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
SEPTEMBER 2003 AGENDA
Item No. WC-4

<p>TITLE: Request by Center Unified School District to waive <i>Education Code</i> (EC) Section 56366.1(g), which could allow Integrated Rehabilitation Services to submit their renewal application outside the August 1 - October 31 timeline.</p> <p>CDSIS: 57-6-2003</p>	<p>_____ ACTION _____ INFORMATION _____ PUBLIC HEARING _____ X CONSENT</p>
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RECOMMENDATION:

The Department recommends: Approval

Summary of Previous State Board of Education Discussion and Action:

Requests to waive the annual application timeline (August 1 through October 31) by a nonpublic school or agency have been presented to the State Board in the past. The SBE Waiver Policy #00-003 evaluation guidelines and the receipt and review of the annual application forms from the NPS/A are used in reviewing this type of waiver.

Summary of Key Issue(s):

The nonpublic agency (NPA) was unclear with the code requiring the completion and submission of an annual renewal application. The NPA is now aware of the annual renewal period. The 2003 Application Update form and certification fee was received in the Office of Nonpublic Schools on June 25, 2003. This is a first-time occurrence.

Authority for the waiver: *Education Code* (EC) Section 56101

Bargaining unit(s) consulted on: N/A

Position of bargaining unit (choose only one): N/A

Neutral

Support

Oppose

Name of bargaining unit representative: N/A

Local board approval date: N/A

Effective dates of request: 11/1/02 - 10/12/03

Fiscal Analysis (as appropriate): No know fiscal impacts.

Background Information:

Waiver request forms and supporting documents are available for inspection in the Waiver Office.

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
SEPTEMBER 2003 AGENDA
Item No. WC-5

<p>TITLE: Request by the Pasadena Unified School District to waive <i>Education Code</i> (EC) Section 56366.1(g), which would allow Villa Esperanza Services to submit their renewal application outside the August 1 – October 31, timeline.</p> <p>CDSIS: 55-6-2003</p>	<p>_____ ACTION _____ INFORMATION _____ PUBLIC HEARING _____ CONSENT</p>
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RECOMMENDATION: The Department recommends: Approval Denial

Summary of Previous State Board of Education Discussion and Action:

Requests to waive this *Education Code* have been supported by the State Board in the past.

Summary of Key Issue(s):

- *Education Code* (EC) Section 56366.1(g) requires the superintendent to annually review the certification of each nonpublic school. The nonpublic school must submit their application between August 1 and October 31, unless the board grants a waiver.
- Villa Esperanza did not submit an application with the required timeline
- The staff person responsible for submitting the application, left Villa Esperanza the summer of 2002. During the transition of hiring new staff, the school failed to file the yearly renewal.
- Villa Esperanza has been a certified nonpublic school since 1982. This is the first time they have not filed their application on time.

Authority for the waiver: *Education Code* (EC) Section 56101

Bargaining unit(s) consulted on: N/A

Position of bargaining unit (choose only one): N/A

Neutral

Support

Oppose

Name of bargaining unit representative: N/A

Local board approval date: 6/18/2003

Effective dates of request: November 1, 2002 to September 11, 2003

Fiscal Analysis (as appropriate): None

Background Information: Waiver request forms and supporting documents are available in the Waiver Office.

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
SEPTEMBER 2003 AGENDA
Item No. WC-6

<p>TITLE: Request by two districts to waive <i>Education Code</i> (EC) Section 49550, the State Meal Mandate during the summer school session.</p> <p>CDSIS: see list below</p>	<p>_____ ACTION _____ INFORMATION _____ PUBLIC HEARING <u> X </u> CONSENT</p>
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RECOMMENDATION: The Department recommends: Approval Denial

Summary of Previous State Board of Education Discussion and Action:

Waivers of this type normally go to the State Board of Education Consent Calendar, as there is statutory basis for the approval recommendation.

Summary of Key Issue(s):

The California *Education Code* (EC) Section 49550 states that each needy child that attends a public school be provided a nutritionally adequate free or reduced-price meal every school day. The following district has requested a waiver of EC Section 49550 for Summer 2003. EC Section 49548 allows a waiver of EC Section 49550 during summer school if the district seeking the waiver has sites that meet at least two of the following four criteria:

- a) The summer school session is less than four hours duration and is completed by noon;
- b) Less than ten percent of needy pupils attending the summer session are at the school site for more than three hours per day;
- c) A Summer Food Service Program site is available within the school attendance area;
- d) Serving meals during the summer school session would result in a financial loss to the school district in an amount equal to one-third of the food service net cash resources or, if those cash resources are nonexistent, an amount equivalent to one month's operating cost.

Agreement Number:	District(s):	Effective Period:	Local Board Approval:	Waiver Number:
19-64717-0000000-01	Little Lake City SD	06/23/03-07/24/03	06/10/03	44-6-2003
19-64311-0000000-01	Beverly Hills USD	06/25/03-08/05/03	07/29/03	58-6-2003

Authority for the waiver: *Education Code* (EC) Section 49548

Bargaining unit(s) consulted on: **not required**

Position of bargaining unit (choose only one): not required

Neutral

Support

Oppose

Name of bargaining unit representative: **not required**

Local board approval date: **See table above**

Effective dates of request: **See table above**

Little Lake City School District requests approval for the following sites. They meet two of the four criteria.

- Lake Center Middle School
- Lakeview Elementary School

Beverly Hills Unified School District requests approval for the following site. They meet two of the four criteria.

- Horace Mann Elementary School

Fiscal Analysis (as appropriate): The approval of this waiver will have no impact on local or state finances.

Background Information: Waiver request forms and supporting documents are available for inspection in the Waiver Office.

GENERAL WAIVER COVER SHEET

CALIFORNIA STATE BOARD OF EDUCATION

SEPTEMBER 2003 AGENDA

Item No. W-1

<p>TITLE: Request by the Alhambra City Elementary School District and the Alhambra City High School District to waive part or all of <i>Education Code</i> (EC) Sections 5033, 35101, 35102, 35106, 35737, and 35756-35765 regarding elections for unification proposals and governing boards of newly unified school districts.</p> <p>CDSIS: 50-6-2003</p>	<p><u> X </u> ACTION <u> </u> INFORMATION <u> </u> PUBLIC HEARING <u> </u> CONSENT</p>
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RECOMMENDATION:

The Department recommends: Approval on the condition that the State Board of Education (SBE) has also approved the proposal to unify Alhambra City Elementary School District and the Alhambra City High School District.

Summary of Previous State Board of Education Discussion and Action:

In June 1998, the SBE conditionally approved waiver requests from the Napa Valley Unified School District and the Winters Joint Unified School District to allow a transfer of territory without an election. The conditions of approval required the Napa and Yolo county committees on school district organization to find all the conditions for a proposed transfer of territory had been substantially met.

To staff's knowledge, the SBE has never received a request to waive election of a governing board for a newly unified school district. The SBE has approved waivers to allow concurrent membership on a governing board of a newly unified district and the governing board of a district reorganized into the unified district and that will cease to exist after unification.

Summary of Key Issue(s):

Alhambra City Elementary District and Alhambra City High School District have operated with a common administration and common governing board for over 100 years. These districts are one of only five pairs of districts in the state that current law (*Education Code* (EC) Section 35111) requires to be treated as a single district for almost all purposes including, but not limited to, budget and personnel matters.

Staff supports waiver of the required election on the proposal for unification (should the SBE approve unification) because: (1) the two districts currently operate in almost all respects as a unified district, (2) unification will result in no recognizable change in operation for the general public, (3) students will continue to attend the same schools, and (4) there will be no effects on district staff.

Staff supports waiver of the required election for an initial governing board for the newly unified district because (1) current governing board members were voted into office by exactly the same electorate that would vote for the new governing board, (2) current governing board members were elected to oversee both the elementary and secondary programs, and (3) current governing board members function in almost all respects as the governing board of a unified district.

It is the opinion of staff that such elections are unnecessary expenses when the outcomes result in no discernible change.

Bargaining unit(s) consulted on: 5/5/03 for CSEA; 5/13/03 for ATA

Position of bargaining unit (choose only one):

Neutral Support Oppose

Name of bargaining unit representative: Darlene Perez for CSEA; Gloria Tauson for ATA

Public hearing identified by (choose one or more):

posting in a newspaper posting at each school other

(specify): school district office, Chamber of Commerce, City Hall, Public Library

Public hearing held on: 6/3/2003

Local board approval date: 6/3/2003

Advisory committee(s) consulted: N/A

Objections raised (choose one): None Objections are attached on separate sheet

Date consulted: N/A

Effective dates of request: September 11, 2003 to July 1, 2005

Fiscal Analysis (as appropriate):

The districts would avoid election costs.

Background Information:

Documentation is attached to this Summary:

Attachment 1: Alhambra City School District General Waiver Request (Pages 1-12) (This attachment is not available on the Web.)

SEPTEMBER 2003
PROPOSED CONSENT and NON-CONSENT WAIVERS
Staff Recommendations

ITEM #	WAIVER SUBJECT	PROPOSED CONSENT* (SBE/CDE Recommendation)	NON-CONSENT** (CDE Only Recommendation)
ITEM W-1	Elections/Unification		Approve, ECS 33051(c) will apply
ITEM W-2	Employment-Retired School Teachers	Approve with Conditions	
ITEM W-3	Equity Length of Time	Approve with Conditions	
ITEM W-4	Equity Length of Time	Approve with Conditions	
ITEM W-5	Equity Length of Time	Approve, ECS 33051(c) will apply	
ITEM W-6	Equity Length of Time	Approve with Conditions	
ITEM W-7	Equity Length of Time	Approve with Conditions	
ITEM W-8	Equity Length of Time	Approve with Conditions	
ITEM W-9	Instructional Materials Funding Realignment Program Petition	Approve	
ITEM W-10	Instructional Materials Funding Realignment Program Petition	Approve	
ITEM W-11	Instructional Materials Funding Realignment Program Petition	Approve with conditions	
ITEM W-12	Instructional Materials Funding Realignment Program Petition	Approve with conditions	
ITEM W-13	Instructional Materials Sufficiency		Approve with conditions
ITEM W-14	9 th Grade Class Size Reduction	Approve with conditions, ECS 33051(c) will apply	
ITEM W-15	Non-Public School/Agency (child specific)	Approve	
ITEM W-16	Non-Public School/Agency (child specific)	Approve	
ITEM W-17	Non-Public School/Agency (child specific)	Approve	

* Proposed Consent: Waivers in this column are recommended for approval by both SBE and CDE staffs.

** Non-Consent: Waivers in this column are either recommended for denial or warrant discussion. These waivers are printed in **boldface** type.

GENERAL WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
SEPTEMBER 2003 AGENDA
Item No. W-2

<p>TITLE: Request by Los Angeles Unified School District for a waiver of <i>Education Code (EC)</i> Section 45134(c), to allow the employment of three State Teacher Retirement System (STRS) retirees as staff assistants to board members. (Donna Smith, Lannie Foster and Edward Burke)</p> <p>CDSIS: 22-7-2003</p>	<p><u> X </u> ACTION</p> <p><u> </u> INFORMATION</p> <p><u> </u> PUBLIC HEARING</p> <p><u> </u> CONSENT</p>
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RECOMMENDATION:

The Department recommends approval of this waiver with the condition that the waiver is only for the individuals named above and is good for four years only from October 1, 2003 through June 30, 2007.

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education has approved one similar waiver in the past for a retired teacher returning as a bus driver.

Summary of Key Issue(s):

The Los Angeles Unified School District (LAUSD) is requesting a waiver of *E.C.* Section 45134(c) to allow them to hire three STRS retirees as staff assistants to two board members retired certificated district employees. LAUSD wants to waive *E.C.* Section 45134(c) that states “*No person shall be employed in school employment while he or she is receiving a retirement allowance under any retirement system by reason of prior school employment...*”

The LAUSD school board encompasses a large geographic area that is one of the most densely populated areas in the state. The areas under each board member are comparable to the size of two Congressional districts. Considering the immense responsibilities of each LAUSD board member and the size of their area, it is imperative for them to have experienced staff. These retirees from LAUSD, now in the STRS retirement system, are highly qualified to provide constituent services and to act as policy advisors to the board members. Donna Smith is a retired principal, and Lannie Foster and Edward Burke are retired teachers, all very capable individuals to handle the job. Usually, the district has hired recent college graduates as interns to provide these vital services to their board members but hiring these three individuals gives the board an added advantage of actual school/district experience.

Therefore, since the hiring of these three retirees will enhance the capacity of the two board members to provide a high level of service to their constituents, the department recommends approval with the condition that the waiver is only for the individuals named above and is good for four years only, October 1, 2003 through June 30, 2007.

Bargaining unit(s) consulted on: 07/17/03

Position of bargaining unit (choose only one):

Neutral Support Oppose

Name of bargaining unit representative: Linda Guthrie, VP,UTLA

Public hearing identified by (choose one or more):

posting in a newspaper posting at each school other

(specify) _____

Public hearing held on: 07/22/03

Local board approval date: 07/22/03

Advisory committee(s) consulted: District Advisory Council Legislative Committee

Objections raised (choose one): None Objections are attached on separate sheet

Date consulted: 07/18/03

Effective dates of request: 10/01/03 – 06/30/07

Fiscal Analysis (as appropriate): N/A

Background Information:

Documentation is attached to this summary.

GENERAL WAIVER COVER SHEET

CALIFORNIA STATE BOARD OF EDUCATION

SEPTEMBER 2003 AGENDA

Item No. W-3

<p>TITLE: Request by North Sacramento Elementary School District for a waiver of <i>Education Code</i> (EC) Section 37202, equity length of time requirement to allow a full day kindergarten pilot program at Northwood Elementary School.</p> <p>CDSIS: 32-6-2003</p>	<p><input checked="" type="checkbox"/> ACTION</p> <p><input type="checkbox"/> INFORMATION</p> <p><input type="checkbox"/> PUBLIC HEARING</p> <p><input type="checkbox"/> CONSENT</p>
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RECOMMENDATION:

The Department recommends approval of this waiver for one year with the condition that the district provide an evaluation of the full day kindergarten pilot program before a renewal is considered.

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education has approved similar waivers in the past.

Summary of Key Issue(s):

The **North Sacramento Elementary School District** is requesting a waiver of EC Section 37202, the equity length of time requirement, in order to begin a full-day kindergarten pilot program at one of their eleven elementary schools, **Northwood Elementary School**. The district has 4 classes of kindergarteners at that school. Northwood has the space available to provide an extended program.

The district wants to provide an extended day kindergarten at the Northwood Elementary School, a school that enrolls a large number of English learners, while the numbers of Hmong children are decreasing, the number of Hispanic families moving into the attendance area is increasing. The additional minutes are to provide language acquisition instruction for those students entering school in the United States for the first time. Northwood School's enrolled students nearly all qualify for the free and reduced price lunch program and it has been noted that most children begin kindergarten without the benefit of previously attending preschool. The school plans to offer these children a well-rounded curriculum plus enrichment activities and age appropriate activities. One of the benefits of being able to extend the minutes is the opportunity to spend more time on enrichment activities for these children.

The school board has adopted a policy for the Early Primary Program and will follow the recommendations of EC Sections 8970-8974. The teacher's union fully supports this pilot program and the site council encourages this opportunity to enhance the instructional

program at Northwood. The district has an open enrollment policy for parents who may wish to enroll their kindergarten pupils in this pilot program.

Therefore, the department recommends approval of this waiver for one year only with the condition that the district provide an evaluation of the full day kindergarten pilot program before a renewal is considered.

Bargaining unit(s) consulted on: May 5, 2003 and May 12, 2003

Position of bargaining unit (choose only one):

Neutral Support Oppose

Name of bargaining unit representative: Janet Schafer, Carol McKinley, Linda Powell, Joan Whittaker

Public hearing identified by (choose one or more):

posting in a newspaper posting at each school other (specify)

Public hearing held on: June 10, 2003

Local board approval date: June 10, 2003

Advisory committee(s) consulted: May 23, 2003

Objections raised (choose one): None Objections are attached on separate sheet

Effective dates of request: 07/01/03 – 06/31/04

Fiscal Analysis (as appropriate):

No impact.

Background Information:

Waiver request forms and supporting documents are attached to this summary.

GENERAL WAIVER COVER SHEET

CALIFORNIA STATE BOARD OF EDUCATION

SEPTEMBER 2003 AGENDA

Item No. W-4

TITLE: Request by Las Virgenes Unified School District to waive <i>Education Code (EC)</i> Section 37202, equity length of time requirement to allow a full day kindergarten program at Sumac School .	<input checked="" type="checkbox"/> ACTION <input type="checkbox"/> INFORMATION <input type="checkbox"/> PUBLIC HEARING <input type="checkbox"/> CONSENT
CDSIS: 37-6-2003	

RECOMMENDATION:

The Department recommends approval of this waiver for one year with the condition that the district provide an evaluation of the full day kindergarten program before a renewal is considered.

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education has approved similar waivers in the past.

Summary of Key Issue(s):

The **Las Virgenes Unified School District** is requesting a waiver of EC Section 37202, the equity length of time requirement, in order to institute a full-day kindergarten program at one of their eight elementary schools, **Sumac Elementary**. Las Virgenes Unified is requesting to increase the kindergarten instructional time in order to increase student achievement for these Title I students. The district has used current research to help them reach this conclusion and the fact that with the high stakes testing beginning in the second grade, children cannot afford to fall behind. The district also has a transfer policy to allow parents that want their children to attend one of the extended day kindergartens to be able to do so. The local board has passed a resolution to support the full day kindergarten pilot, according to EC Sections 8970-8974 and the district will provide an integrated age appropriate curriculum. School staff recognize that kindergarteners often leave the classroom to spend time at child care and find it more reasonable to offer more time in the classroom where the kindergarteners can receive quality instruction. More time in the classroom will enhance their school experience because the teachers will be able to spend more time with enrichment activities as well as covering all of the expected curriculum.

Therefore, the department recommends approval of this waiver for one year with the condition that the district provide an evaluation of the full day kindergarten before a renewal is considered.

Bargaining unit(s) consulted on: 04/30/03

Position of bargaining unit (choose only one):

Neutral

Support

Oppose

Name of bargaining unit representative: Arleigh Kidd

Public hearing identified by (choose one or more):

posting in a newspaper posting at each school other (specify) Public
Library, City Hall & Adult Education Site

Public hearing held on: June 03 & 24, 2003

Local board approval date: June 03 & 24, 2003

Advisory committee(s) consulted: All

Objections raised (choose one): None Objections are attached on
separate sheet

Date consulted: various dates

Effective dates of request: 08/27/03 – 06/10/04

Fiscal Analysis (as appropriate):

No impact.

Background Information:

Waiver request forms and supporting documents are attached to this summary.

GENERAL WAIVER COVER SHEET

CALIFORNIA STATE BOARD OF EDUCATION

SEPTEMBER 2003 AGENDA

Item No. W-5

TITLE: Request by Auburn Union School District for a renewal waiver of <i>Education Code</i> (EC) Section 37202, equity length of time requirement to allow a full day kindergarten program at Rock Creek School and Alta Vista School .	<input checked="" type="checkbox"/> ACTION <input type="checkbox"/> INFORMATION <input type="checkbox"/> PUBLIC HEARING <input type="checkbox"/> CONSENT
CDSIS: 11-7-2003	

RECOMMENDATION:

The Department recommends approval of this waiver, and as long as the conditions of the waiver do not change, EC Section 33051 (c) will apply.

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education has approved similar waivers in the past.

Summary of Key Issue(s):

The **Auburn Union School District** is requesting a waiver of EC Section 37202, the equity length of time requirement, in order to continue a full-day kindergarten program at two of their four elementary schools, **Rock Creek and Alta Vista Schools**.

As part of the condition of the renewal request, the district has provided an evaluation of the program as it was implemented during the 2002-2003 school year. Their evaluation looked at four critical areas: kindergarten retention reduction, comparison of "at-risk" kindergarten students at the beginning of the school year and at the end of the school year, kindergarten readiness to read, and ability to provide more time for the needs of English learners. The district received many positive reactions in the form of letters and testimonials from parents and teachers regarding the extended day program. Their evaluation also included comparison data of the students in the extended day program to previous years, all of which resulted in positive gains for the kindergarteners in the current program at these two schools. Overall, the results have been extremely convincing that the program is working to improve teaching and learning at these two schools. Attached are the summaries of their evaluation of the full-day kindergarten program.

Therefore, the department recommends approval of this waiver, and that as long as the conditions of the waiver do not change, EC Section 33051(c) will apply.

Bargaining unit(s) consulted on: April 11 and July 3, 2003

Position of bargaining unit (choose only one):

Neutral Support Oppose

Name of bargaining unit representative: Leslye Vodden, Lynn Beckler, Kelly Bennett
(AUTA Pres.)

Public hearing identified by (choose one or more):

posting in a newspaper posting at each school other (specify)

Public hearing held on: July 16, 2003

Local board approval date: July 16, 2003

Advisory committee(s) consulted: Rock Creek; and Alta Vista

Objections raised (choose one): None Objections are attached on
separate sheet

Date consulted: May 8, 2003 and May 16, 2003 respectively

Effective dates of request: 08/21/03 – 08/20/05

Fiscal Analysis (as appropriate):

No impact.

Background Information:

Waiver request forms and supporting documents are attached to this summary.

GENERAL WAIVER COVER SHEET

CALIFORNIA STATE BOARD OF EDUCATION

SEPTEMBER 2003 AGENDA

Item No. W-6

<p>TITLE: Request by Salinas City Elementary School District to waive <i>Education Code (EC)</i> Section 37202, equity length of time requirement to allow a full day kindergarten program at Boronda, Loma Vista and Los Padres Elementary Schools.</p> <p>CDSIS: 28-7-2003</p>	<p><u> X </u> ACTION <u> </u> INFORMATION <u> </u> PUBLIC HEARING <u> </u> CONSENT</p>
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RECOMMENDATION:

The Department recommends approval of this waiver for one year with the condition that the district provide an evaluation of the full day kindergarten pilot program before a renewal is considered.

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education has approved similar waivers in the past.

Summary of Key Issue(s):

The **Salinas City Elementary School District** is requesting a waiver of *EC* Section 37202, the equity length of time requirement, in order to institute a full-day kindergarten program at three of their thirteen elementary schools as a pilot program for one year. Salinas City Elementary is requesting to increase the kindergarten instructional time to 285 minutes a day which will make kindergarten instructional time the same length as the first through third grades in the district. The teachers and parents want the full day kindergarten and the program has been discussed at parent-teacher meetings and at school site councils. The additional time will focus on core curriculum areas such as language arts and mathematics with enrichment activities. The district has a student population of 72% of free and reduced-price lunches. Research suggests that giving children from lower-socio-economic levels more time in schools helps to better prepare them for higher grades.

The district has the agreement of the bargaining unit. There is adequate space at the three schools selected for this pilot and the district has an open enrollment policy for parents who might want to transfer their students to one of these schools with the full-day kindergarten. The local board adopted *EC* Sections 8970-8974 to establish an Early Primary Program.

Therefore, the department recommends approval of this waiver for one year with the condition that the district provide an evaluation of the full day kindergarten pilot program before a renewal is considered.

Bargaining unit(s) consulted on: 06/02/03

Position of bargaining unit (choose only one):

Neutral

Support

Oppose

Name of bargaining unit representative: Tom Goevelinger, Katie Venza

Comments: Mr. Goevelinger and Ms. Venza stated that they want a "side letter" to the contract regarding working conditions before the program can begin.

Public hearing identified by (choose one or more): School Board Meeting, June 21, 2003

Public hearing held on: June 09, 2003

Local board approval date: June 28, 2003

Advisory committee(s) consulted: All

Objections raised (choose one): None Objections are attached on separate sheet

Date consulted: various dates

Effective dates of request: 07/01/03 – 6/30/04

Fiscal Analysis (as appropriate):

No impact.

Background Information:

Waiver request forms and supporting documents are attached to this summary.

GENERAL WAIVER COVER SHEET

CALIFORNIA STATE BOARD OF EDUCATION

SEPTEMBER 2003 AGENDA

Item No. W-7

<p>TITLE: Request by Paramount Unified School District for a renewal to waive <i>Education Code</i> (EC) Section 37202, equity length of time requirement for kindergarten students at Wirtz School to allow full day kindergarten programs.</p> <p>CDSIS: 30-07-2003</p>	<p><u> X </u> ACTION</p> <p><u> </u> INFORMATION</p> <p><u> </u> PUBLIC HEARING</p> <p><u> </u> CONSENT</p>
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RECOMMENDATION:

The Department recommends approval of this waiver for one year with the condition that the district provide an evaluation of the full day kindergarten pilot program before a renewal is considered.

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education has approved similar waivers in the past.

Summary of Key Issue(s):

Paramount Unified School District is requesting a renewal of the waiver of *Education Code* (EC) Section 37202 that states a district shall maintain an equal length of time in the school year for all its elementary schools. The district piloted a full day kindergarten at **Wirtz School** and as a condition of renewal, the district had to submit an evaluation of the pilot program. The district increased the minutes at **Wirtz** to 320 minutes a day and in addition to a core program focusing on student achievement, included a daily program for physical education, health, visual and performing arts and English language development. For the purpose of the evaluation, the district compared results at **Wirtz** to a similar school in the district, **Roosevelt**. The results of the achievements made by the **Wirtz** kindergarteners compared to the **Roosevelt** kindergarteners are written into the evaluation, highlighting the accomplishments made by the teachers and pupils by expanding the instructional time for those children. The evaluation report also lists five unanticipated outcomes at the school, such as: an increase in student attendance, teacher collaboration, and pupil enthusiasm. The students, teachers and parents support this program and hope for its continuation. The evaluation clearly demonstrates improvement in student achievement and substantiates the worthiness of the continuing the program.

Therefore, the Department recommends approval of this waiver for one year with the condition that the district provide an evaluation of the full day kindergarten pilot program before a renewal is considered.

Bargaining unit(s) consulted on: July 2, 2003

Position of bargaining unit (choose only one):

Neutral Support Oppose

Name of bargaining unit representative: Terry Race, Robin Devitt

Public hearing identified by (choose one or more):

posting in a newspaper posting at each school other

(specify)

Public hearing held on: July 22, 2003

Local board approval date: July 22, 2003

Advisory committee(s) consulted:

Objections raised (choose one): None Objections are attached on
separate sheet

Date consulted:

Effective dates of request: 07/01/03 to 06/30/04

Fiscal Analysis (as appropriate):

No impact.

Background Information:

Waiver request forms and supporting documents are attached to this summary.

GENERAL WAIVER COVER SHEET

CALIFORNIA STATE BOARD OF EDUCATION

SEPTEMBER 2003 AGENDA

Item No. W-8

TITLE: Request by Simi Valley Unified School District to waive <i>Education Code (EC)</i> Section 37202, equity length of time requirement to allow full day kindergarten programs at seven elementary schools: Knolls, Santa Susana, Park View, Justin, Arroyo, Township and Berylwood.	<input checked="" type="checkbox"/> ACTION <input type="checkbox"/> INFORMATION <input type="checkbox"/> PUBLIC HEARING <input type="checkbox"/> CONSENT
CDSIS: 4-7-2003	

RECOMMENDATION:

The Department recommends approval of this waiver for one year with the condition that the district provide an evaluation of the full day kindergarten pilot program before a renewal is considered.

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education has approved similar waivers in the past.

Summary of Key Issue(s):

The **Simi Valley Unified School District** is requesting a waiver of *EC* Section 37202, the equity length of time requirement, in order to institute a full-day kindergarten program at seven of their twenty-one elementary schools as a pilot program for one year. Simi Valley Unified is requesting to increase the kindergarten instructional time in order to increase student achievement as the content standards for kindergarteners have increased over the last several years as well as the content standards for grades one through three. The districts hopes that by increasing the number of minutes of instructional time for kindergarten students that teachers will not have to spend as much time later on with remedial tasks in higher grades. Research also suggests that giving children from lower-socio-economic levels more time in schools helps to better prepare them for higher grades.

The district has the agreement of the bargaining unit. There is enough space at the selected schools for this pilot and the district has an open enrollment policy for parents who might want to transfer their students to one of these schools with the full-day kindergarten. The local board adopted *EC* Sections 8970-8974 to establish an Early Primary Program.

Therefore, the department recommends approval of this waiver for one year with the condition that the district provide an evaluation of the full day kindergarten pilot program before a renewal is considered.

Bargaining unit(s) consulted on: 04/30/03

Position of bargaining unit (choose only one):

Neutral

Support

Oppose

Name of bargaining unit representative: Arleigh Kidd

Public hearing identified by (choose one or more):

posting in a newspaper posting at each school other (specify) Public
Library, City Hall & Adult Education Site

Public hearing held on: June 03 & 24, 2003

Local board approval date: June 03 & 24, 2003

Advisory committee(s) consulted: All

Objections raised (choose one): None Objections are attached on
separate sheet

Date consulted: various dates

Effective dates of request: 08/27/03 – 06/10/04

Fiscal Analysis (as appropriate):

No impact.

Background Information:

Waiver request forms and supporting documents are attached to this summary.

**Instructional Materials Funding Realignment Program (IMFRP)
Petition Request
CALIFORNIA STATE BOARD OF EDUCATION
SEPTEMBER 2003 AGENDA
Item No. W-9**

<p>SUBJECT: Petition request under <i>Education Code</i> (EC) Section 60421(d) and 60200(g) by Alhambra School District to purchase non-adopted Instructional Resources (<i>Houghton Mifflin Mathematics, Grade 6</i>) using Instructional Materials Funding Realignment Program (IMFRP) monies.</p> <p>CDSIS: 38-6-2003</p>	<p><u> X </u> ACTION <u> </u> INFORMATION <u> </u> PUBLIC HEARING</p>
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RECOMMENDATION:

The Department recommendation: Approval July 1, 2003 through July 1, 2005.

Summary of Previous State Board of Education Discussion and Action:

In the last two years, four IMF petitions, fifteen Schiff-Bustamante waiver requests, and two IMFRP petition have been submitted to the Board for Grade 6 of the *Houghton Mifflin Mathematics* program. All twenty-one of these requests were approved by the State Board.

Summary of Key Issue(s):

The **Alhambra School District** requests approval of its petition pursuant to *Education Code* (EC) Section 60200 (g):

“If a district board establishes to the satisfaction of the State Board that the state-adopted instructional materials do not promote the maximum efficiency of pupil learning in the district, the State Board shall authorize the district board to use its instructional materials allowance to purchase materials as specified by the State Board.”

In addition, language within the new Instructional Materials Funding Realignment Program in *Education Code* (EC) Section 60421(d) specifically authorizes the State Board to grant waivers for the purchase of nonadopted materials:

“Notwithstanding any other provision of law, pursuant to subdivision (g) of Section 60200, the State Board of Education may authorize a school district to use any state basic instructional materials allowance to purchase standards-aligned materials as specified within this part.”

Alhambra School District is requesting a waiver for the use of Instructional Materials Funding Realignment Program (IMFRP) funds for the purchase of *Houghton Mifflin Mathematics* for Grade 6. The K-5 program was submitted and adopted under the 2001 Mathematics Adoption.

While no State Board policy currently exists for petitions under the new Instructional Materials Funding Realignment Program, the State Board approved fifteen waivers for districts to use this program under its Schiff-Bustamante grade-level extension exemption policy (State Board Policy #99-06).

The *Houghton Mifflin Mathematics* program for grades K-5 was submitted for review under the 2001 Mathematics Adoption. It was adopted by the State Board of Education. The grade 6 program was completed after the state adoption of the grades K-5 program. The district is requesting a waiver for a program that would continue or extend a currently adopted program. At the Board's request, Commissioner Sue Stickel reviewed grade 6 of the *Houghton Mifflin Mathematics Program* and felt that the program offered sufficient coverage of the mathematics content standards.

The district is currently using the state-adopted Houghton-Mifflin series in grades K-4, and has adopted the same series for fifth grade. The district's 2002 API scores are average, with 4 of its 13 schools scoring in the seventh decile or higher, with the lowest-scoring school scoring in the fourth decile with a Base API of 667. No test data was provided; however, this information was not required for an Exemption One waiver request under the former State Board Schiff-Bustamante Policy #99-06. The district is committed to improving its performance by using a state-approved program in mathematics that is consistently applied through grades K-6.

Department Recommendation

The Department recommendation is for approval of the petition request from 7/1/03 through 7/1/05.

Authority for the petition: EC 60421 (d) and 60200(g)

Local Board approval: May 20, 2003

Public hearing held on: May 20, 2003

Fiscal Analysis (as appropriate)

LEA's estimated total K-12 IMFRP in the 2003-2004 year:	\$ 502,860 ¹
Estimated cost of requested materials 2003-2004:	\$ 76,000
Percentage of total IMFRP:	15.1%

Background Information is attached to this Agenda Item.

¹ Estimate provided by the district. Note that due to ongoing budget cuts, it is impossible to be certain how much funding for IMFRP will be provided in future years.

**Instructional Materials Funding Realignment Program (IMFRP)
Petition Request
CALIFORNIA STATE BOARD OF EDUCATION
SEPTEMBER 2003 AGENDA
Item No. W-10**

<p>SUBJECT: Petition request under <i>Education Code</i> (EC) Section 60421(d) and 60200(g) by Cypress School District to purchase non-adopted Instructional Resources (<i>Houghton Mifflin Mathematics, Grade 6</i>) using Instructional Materials Funding Realignment Program (IMFRP) monies.</p> <p>CDSIS: 27-7-2003</p>	<p><u> X </u> ACTION <u> </u> INFORMATION <u> </u> PUBLIC HEARING</p>
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RECOMMENDATION:

The Department recommendation: Approval August 1, 2003 through July 31, 2005.

Summary of Previous State Board of Education Discussion and Action:

In the last two years, four IMF petitions, fifteen Schiff-Bustamante waiver requests, and three IMFRP petitions have been submitted to the Board for Grade 6 of the *Houghton Mifflin Mathematics* program. All twenty-two of these requests were approved by the State Board.

Summary of Key Issue(s).

The **Cypress School District** requests approval of its petition pursuant to *Education Code* (EC) Section 60200 (g):

“If a district board establishes to the satisfaction of the State Board that the state-adopted instructional materials do not promote the maximum efficiency of pupil learning in the district, the State Board shall authorize the district board to use its instructional materials allowance to purchase materials as specified by the State Board.”

In addition, language within the new Instructional Materials Funding Realignment Program in *Education Code* (EC) Section 60421(d) specifically authorizes the State Board to grant waivers for the purchase of nonadopted materials:

“Notwithstanding any other provision of law, pursuant to subdivision (g) of Section 60200, the State Board of Education may authorize a school district to use any state basic instructional materials allowance to purchase standards-aligned materials as specified within this part.”

Cypress School District is requesting a waiver for the use of Instructional Materials

Funding Realignment Program (IMFRP) funds for the purchase of *Houghton Mifflin Mathematics* for Grade 6. The K-5 program was submitted and adopted under the 2001 Mathematics Adoption.

While no State Board policy currently exists for petitions under the new Instructional Materials Funding Realignment Program, the State Board approved fifteen waivers for districts to use this program under its Schiff-Bustamante grade-level extension exemption policy (State Board Policy #99-06).

The *Houghton Mifflin Mathematics* program for grades K-5 was submitted for review under the 2001 Mathematics Adoption. It was adopted by the State Board of Education. The grade 6 program was completed after the state adoption of the grades K-5 program. The district is requesting a waiver for a program that would continue or extend a currently adopted program. At the Board's request, Commissioner Sue Stickel reviewed grade 6 of the *Houghton Mifflin Mathematics Program* and felt that the program offered sufficient coverage of the mathematics content standards.

The district is currently using the state-adopted Houghton-Mifflin series in grades K-5. The district's 2002 API scores are above average, with 8 of its 10 schools scoring in the eighth decile or higher, with the lowest-scoring school scoring in the sixth decile. No test data was provided; however, this information was not required for an Exemption One waiver request under the former State Board Schiff-Bustamante Policy #99-06. The district is committed to improving its performance by using a state-approved program in mathematics that is consistently applied through grades K-6.

Department Recommendation

The Department recommendation is for approval of the petition request from 8/1/03 through 7/31/05.

Authority for the petition: **E.C. 60421 (d) and 60200(g)**

Local Board approval: July 22, 2003

Public hearing held on: July 22, 2003

Fiscal Analysis (as appropriate)

LEA's estimated total K-8 IMFRP in the 2003-2004 year:	\$ 178,956 ¹
Estimated cost of requested materials 2003-2004:	\$ 36,679
Percentage of total IMFRP:	20.5%

Background Information is attached to this Agenda Item.

¹ Estimate provided by the district. Note that due to ongoing budget cuts, it is impossible to be certain how much funding for IMFRP will be provided in future years.

**Instructional Materials Funding Realignment Program (IMFRP)
Petition Request
CALIFORNIA STATE BOARD OF EDUCATION
SEPTEMBER 2003 AGENDA
Item No. W-11**

<p>SUBJECT: Petition request under <i>Education Code</i> (EC) Section 60421(d) and 60200(g) by Palos Verde Peninsula School District to purchase Instructional Resources (<i>Everyday Mathematics, 2001 (K-5)</i>) using Instructional Materials Funding Realignment Program (IMFRP) monies.</p> <p>CDSIS: 18-7-2003</p>	<p><input checked="" type="checkbox"/> ACTION <input type="checkbox"/> INFORMATION <input type="checkbox"/> PUBLIC HEARING</p>
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RECOMMENDATION:

The Department recommendation: Approval: September 1, 2003 to September 1, 2004, with the condition that the district supplement *Everyday Mathematics, Grades 4-5*, as necessary for coverage of all mathematics content standards.

Summary of Previous State Board of Education Discussion and Action:

The petition process was continued in statute for use by districts with the new Instructional Materials Funding Realignment Program, AB 1781, Statutes of 2002 with EC 60421 (d). This is the first petition and/or waiver request for *Everyday Mathematics* by this district.

Summary of Key Issue(s).

The Palos Verde Peninsula School District requests approval of its petition pursuant to: EC 60421 (d) "Notwithstanding any other provision of law, pursuant to subdivision (g) of Section 60200, the State Board of Education may authorize a school district to use any state basic instructional materials allowance to purchase standards-aligned materials as specified within this part." EC 60200(g): "If a district board establishes to the satisfaction of the State Board that the state-adopted instructional materials do not promote the maximum efficiency of pupil learning in the district, the State Board shall authorize the district board to use its instructional materials allowance to purchase materials as specified by the State Board."

The Palos Verde Peninsula School District is petitioning to purchase: *Everyday Mathematics, 2001* edition (K-5). There are ten elementary schools in this district (list attached), with nearly 2800 students included in their 2002 API calculations.

These ten schools all have a 10 API ranking, with numeric scores of 875 or higher. STAR and Standards Test scores in Mathematics for the district are significantly higher than the state average. Detailed assessment data is attached to this petition. The District requests that its petition be granted to use *Everyday Mathematics* as the core instructional materials

that best address the needs of both teachers and students and has demonstrated positive results.

Following earlier petition requests to purchase the *Everyday Mathematics* program using Instructional Materials Fund funds, the State Board of Education asked former Commissioner Stickel to review the new 2002 edition of the *Everyday Mathematics* program for grades 4-6. Ms. Stickel found in her report to the Board that there were numerous areas where the Mathematics Standards were not met, particularly at the Grade 4 level. Pursuant to this recommendation the Board acted to approve these petition requests with the condition that the districts demonstrate supplemental coverage of these standards. In their petition request, the district notes that they use additional materials to supplement the *Everyday Mathematics* program when necessary. In prior petition requests for the *Everyday Mathematics* program by other districts, the publisher has indicated that a fourth grade supplement will be provided by Fall 2003.

Department Recommendation

The Department recommendation is for approval of the petition request from 9/1/03 through 9/1/04, for **Palos Verde Peninsula School District**, with the condition that the district supplement *Everyday Mathematics*, Grades 4-5, as necessary for coverage of all mathematics content standards.

Authority for the petition: EC 60421(d) and 60200(g)

Local Board approval: July 10, 2003

Public hearing held on: July 10, 2003

Fiscal Analysis (as appropriate)

LEA's estimated K-12 IMFRP in the 2002-2003 year:	\$ 313,000.00 ¹
Estimated cost of requested materials:	\$ 68,311.29
Percentage of K-12 IMFRP:	21.8 %

Background Information is attached to this Agenda Item.

¹ Estimate provided by the district. Note that due to ongoing budget cuts, it is impossible to be certain how much funding for IMFRP will be provided in future years.

**Instructional Materials Funding Realignment Program (IMFRP)
Petition Request
CALIFORNIA STATE BOARD OF EDUCATION
SEPTEMBER 2003 AGENDA
Item No. W-12**

<p>SUBJECT: Petition request under <i>Education Code</i> (EC) Section 60421(d) and 60200(g) by Explorer Elementary Charter School to purchase Instructional Resources (<i>Everyday Mathematics, K-6</i>) using Instructional Materials Funding Realignment Program (IMFRP) monies.</p> <p>CDSIS: 31-7-2003</p>	<p><input checked="" type="checkbox"/> ACTION <input type="checkbox"/> INFORMATION <input type="checkbox"/> PUBLIC HEARING</p>
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RECOMMENDATION:

The Department recommendation: Approval: September 1, 2003 to September 1, 2005, with the condition that the district supplement *Everyday Mathematics*, Grades 4-6, as necessary for coverage of all mathematics content standards.

Summary of Previous State Board of Education Discussion and Action:

The petition process was continued in statute for use by districts with the new Instructional Materials Funding Realignment Program, AB 1781, Statutes of 2002 with EC 60421 (d). This is the first petition and/or waiver request for *Everyday Mathematics* by this charter school.

Summary of Key Issue(s).

The Explorer Elementary Charter School requests approval of its petition pursuant to: EC 60421 (d) “Notwithstanding any other provision of law, pursuant to subdivision (g) of Section 60200, the State Board of Education may authorize a school district to use any state basic instructional materials allowance to purchase standards-aligned materials as specified within this part.” E.C. 60200(g): “If a district board establishes to the satisfaction of the State Board that the state-adopted instructional materials do not promote the maximum efficiency of pupil learning in the district, the State Board shall authorize the district board to use its instructional materials allowance to purchase materials as specified by the State Board.”

The Explorer Elementary Charter School is petitioning to purchase: *Everyday Mathematics* (K-6). The school services just over 200 students, and had a 2002 API ranking in the tenth (highest) decile. The school’s test scores in mathematics are significantly higher than the averages for the state and the district, with the percentage of students scoring at Basic or higher on the 2002 Mathematics Standards Test averaging approximately 90%.

The District requests that its petition be granted to use *Everyday Mathematics* as the core instructional materials that best address the needs of both teachers and students and has demonstrated positive results.

Following earlier petition requests to purchase the *Everyday Mathematics* program using Instructional Materials Fund funds, the State Board of Education asked former Commissioner Stickel to review the new 2002 edition of the *Everyday Mathematics* program for grades 4-6. Ms. Stickel found in her report to the Board that there were numerous areas where the Mathematics Standards were not met, particularly at the Grade 4 level. Pursuant to this recommendation the Board acted to approve these petition requests with the condition that the districts demonstrate supplemental coverage of these standards. In prior petition requests for the *Everyday Mathematics* program by other districts, the publisher has indicated that a fourth grade supplement will be provided by Fall 2003.

Department Recommendation

The Department recommendation is for approval of the petition request from 9/1/03 through 9/1/05, for **Explorer Elementary Charter School**, with the condition that the district supplement *Everyday Mathematics*, Grades 4-6, as necessary for coverage of all mathematics content standards.

Authority for the petition: EC 60421 (d) and 60200(g)

Local Board approval: June 6, 2003

Public hearing held on: June 6, 2003

Fiscal Analysis (as appropriate)

LEA's K-6 IMFRP in the 2002-2003 year:	\$	7,685.00 ¹
Estimated cost of requested materials:	\$	4,200.00
Percentage of K-6 IMFRP:		54.7%

Background Information is attached to this Agenda Item.

¹ Amount provided by the district. Note that due to ongoing budget cuts, it is impossible to be certain how much funding for IMFRP will be provided in future years.

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
SEPTEMBER 2003 AGENDA
Item No. W-13

<p>TITLE: Request by Cold Springs Elementary School District for a retroactive waiver of <i>Education Code</i> (EC) Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. The district had an audit finding for fiscal year 2001-2002 that they failed to do the proper board “resolution” with their public hearing.</p> <p>CDSIS: 40-4-2003</p>	<p><input checked="" type="checkbox"/> ACTION <input type="checkbox"/> INFORMATION <input type="checkbox"/> PUBLIC HEARING <input type="checkbox"/> CONSENT</p>
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RECOMMENDATION: The Department recommends: **APPROVAL, on the condition that the district agrees to the purchase of the current History Social Science adopted material with the first available funds. Since this is the second time this waiver has been granted, future waivers of this type will most likely be recommended for denial.**

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education (SBE) has heard and approved a policy developed by the department on Instructional Materials Sufficiency Waivers of Retroactive audit findings. However, this district has previously received a waiver of this same EC requirement in a prior year, and attachments to this waiver revealed that it **did not have sufficient “instructional materials in each subject area that are consistent with the content and cycle of the curriculum frameworks adopted by the State Board”** (in 2001-02) for each pupil in each school in the district. Much of this deficiency has now been remedied, however, this waiver **must go to the action calendar** for the SBE’s agenda.

Summary of Key Issue(s):

During an audit for fiscal year 2001-2002, it was discovered that Cold Springs Elementary School District, although they held the public hearing for notice of sufficiency of instructional materials as required by EC Section 60119, they did not adopt a “Board Resolution” as required. In the documentation provided with the waiver, it was evidenced that the district was not within the intent of the law on the issue of the materials being **“consistent with the content and cycle of the curriculum framework adopted by the Board.”** The new Superintendent/Principal started in February 2002 and has been working to bring all textbooks up to the level needed since that time.

In addition the school had an **audit finding in the 1999-2000 fiscal year for not having held the hearing at all**. That waiver was approved on the “consent calendar” under the SBE Waiver policy for EC Section 60119 waivers.

However, it should be noted that the district has a 2002 Base API of 911, and a ranking of 10/8, and even in 1999 had a base API of 909. So, clearly these students are meeting the state standards in ALL academic areas.

The district then held a public hearing within the guidelines of EC Section 60119 at their Public Hearing and resolution for the 2002-2003 year, held on Dec 12, 2002, and determined that it had sufficient texts, however the NEW instructional materials for **social studies** were yet to be purchased, although **all other instructional materials are now up to date**.

The district has made great strides in this area, is now doing the “Board Resolution” as well as the legal public hearing the requirements and agrees to comply with EC Section 60119 in the future, and there would be absolutely no benefit to anyone to cause the district to return all of the Schiff-Bustamante and IMF monies for the 2001-2002 fiscal year, a total of **\$17,350**, (which was actually spent on getting the NEW adopted texts!) for a small school district with an ADA of only 162 students.

Therefore, the Department recommends APPROVAL of this waiver, on the condition that the district agrees to the purchase of the current History Social Science adopted material as soon as they have sufficient IMFRP funds. Since this is the second time this waiver has been granted, future waivers of this type will most likely be recommended for denial.

Authority for the waiver: Education Code (EC) Section 41344.3

Effective dates of request: 7/1/01 to 6/30/02 Focal Year

Local Board Approval Date: 12/12/02

Fiscal Analysis (as appropriate): If approved this waiver will relieve district of **\$17,350** in total penalties.

Background Information: Attached.

GENERAL WAIVER COVER SHEET

CALIFORNIA STATE BOARD OF EDUCATION

SEPTEMBER 2003 AGENDA

Item No. W-14

<p>TITLE: Request by Conejo Valley Unified School District for a renewal to <i>waive Education Code</i> (EC) Sections 52082 and 52084 (a) and (b) under 9th Grade Class Size Reduction (Morgan-Hart) to receive funding to reduce class size for first year Algebra in 8th Grade in addition to Grade 9 English and Math.</p> <p>CDSIS: 13-7-2003</p>	<p><input checked="" type="checkbox"/> ACTION <input type="checkbox"/> INFORMATION <input type="checkbox"/> PUBLIC HEARING <input type="checkbox"/> CONSENT</p>
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RECOMMENDATION:

The Department recommends approval of this waiver on the condition that total funding to the district will not exceed two times the Grade 9 enrollment of the district, and all classes will be held to the 1:20 ratio average (with no more than 22 pupils in any one class. If approved, *Education Code* (EC) Section 33051(c) will apply, and the district will not have to reapply annually if the information contained on the request remains the same.

Summary of Previous State Board of Education Discussion and Action:

The State Board approved the same request from **Conejo Valley USD** on May 30, 2002. If approved, the district would continue to implement the waiver into the 2003-2004 school year.

This waiver would allow Conejo Valley USD to continue the opportunity to reduce class size in 8th grade Algebra I and increase the probability that students will master the course prior to high school enrollment. The State Board has been clear that, when waivers for Grade 9 Class Size Reduction are submitted, the funding amount should not increase. Conejo Valley USD will participate within their previous funding formula (determined by 2 times the CBEDS number for Grade 9 students.)

Summary of Key Issue(s):

The Morgan-Hart Class Size Reduction Act states in *Education Code* (EC) Sections 52084(a) that the Grade 9 course or the two Grade 9 courses included in the program count towards completion of the graduation requirements established in subparagraph (A), (B), (C), or (D) of paragraph (1) of subdivision (a) of *Education Code* (EC) Section 51225.3; provided, however, that one of the courses included in the program shall be English. However in contrast to other districts, Conejo Valley is also requesting a waiver of *Education Code* 52082, the Grade level (9th) so that they can utilize the program in Grade 8. The waiver request from Conejo Valley USD will support the 8th grade Algebra I course, and provide a good foundation for students to enroll in additional Mathematics courses in high school.

Conejo Valley Unified School District reduces class size in Grade 9 English and Grade 9 Algebra I. In addition, they reduce class size in Grade 10 English due to the grandfather provisions allowed in *Education Code* (EC) Section 52480(g). This waiver, if approved, would reduce class size in Algebra I, regardless of whether the course is taught in 8th or 9th grade. The request is based on the SBE's adoption of rigorous mathematics standards and the success of the district in moving Algebra I to students primarily in the 8th grade.

CDE recommends that this waiver be approved for the 2003-2004 school year. The waiver will be conditional that total funding to the district does not exceed two times the Grade 9 enrollment (the maximum funding level) and that the district agrees to provide the student to teacher ratio of 20:1 average (with no more than 22 in any one class).

The district's bargaining unit is neutral on the request.

Bargaining unit(s) consulted on: 06-25-03

Position of bargaining unit (choose only one):

Neutral Support Oppose

Name of bargaining unit representative: Jerry Morris

Public hearing identified by (choose one or more):

posting in a newspaper posting at each school other

(specify)

Public hearing held on: 7-08-03

Local board approval date: 7-08-03

Advisory committee(s) consulted: 6-25-03

Objections raised (choose one): None Objections are attached on separate sheet

Effective dates of request: 06/14/03 - 08/08/04

Fiscal Analysis (as appropriate):

N/A

Background Information:

Waiver request forms and supporting documents are attached.

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
SEPTEMBER 2003 AGENDA
Item No. W-15

<p>TITLE: Request by Fullerton Joint Union High School District to waive <i>Education Code</i> (EC) Section 56366.1(a), certification for an uncertified nonpublic school, Youth Care Pine Ridge Academy located in Draper, Utah to provide services to one special education student, Brittany K.</p> <p>CDSIS: 12-5-2003</p>	<p><u> X </u> ACTION <u> </u> INFORMATION <u> </u> PUBLIC HEARING <u> </u> CONSENT</p>
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RECOMMENDATION:

The Department recommends: Approval Denial

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education has taken action on several previous nonpublic school certification waivers.

Summary of Key Issue(s):

The **Fullerton Joint Union High School District (FJUHSD)** requests a waiver of EC 56366.1(a). This law establishes standards for non-public, nonsectarian schools and agencies to follow to be certified to provide special education and designated instruction services (DIS) to students with disabilities. The district requests this waiver in order to place student, **Brittany K.** at **Youth Care Pine Ridge School in Draper, Utah.**

The placement is the result that no California facility would accept the student due to the seriousness of her particular needs. The **Fullerton Joint Union High School District** asks for the approval of the waiver retroactive to January 1, 2003 and to January 1, 2004.

Brittany K. requires a locked therapeutic facility. This school provides a safe secure setting. In addition, they provide schooling and intensive counseling. The student is making progress in this program.

The **Youth Care Pine Ridge Academy** is a comprehensive residential school equipped to meet **Brittany K.** behavioral and educational needs.

Authority for the waiver: *Education Code* (EC) Section 56101

Bargaining unit(s) consulted on: August 5, 2003

Position of bargaining unit (choose only one):

Neutral

Support

Oppose

Name of bargaining unit representative: Lynn Jacobson, FSTO President

Local board approval date: May 6, 2003

Effective dates of request: January 1, 2003 to January 1, 2004

Fiscal Analysis (as appropriate): No known fiscal impacts

Background Information: Waiver request forms and supporting documents are attached to this summary.

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
SEPTEMBER 2003 AGENDA
Item No. W-16

<p>TITLE: Request by Sonora Union High School District to waive <i>Education Code</i> (EC) Section 56366.1(a) certification for an uncertified nonpublic school, Bancroft School located in Haddonfield, New Jersey to provide services to one special education student, Taylor S.</p> <p>CDSIS: 27-5-2003</p>	<p><u> X </u> ACTION <u> </u> INFORMATION <u> </u> PUBLIC HEARING <u> </u> CONSENT</p>
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RECOMMENDATION:

The Department recommends: Approval Denial

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education has taken action on several previous nonpublic school certification waivers.

Summary of Key Issue(s):

The **Sonora Union High School District (SUHSD)** requests a waiver of EC 56366.1(a). This law establishes standards for non-profit, nonsectarian schools and agencies to follow to be certified to provide special education and designated instruction services (DIS) to students with disabilities. The district requests this waiver in order to place student, **Taylor S.** at **Bancroft School** located in **Haddonfield, New Jersey.**

The student's handicapping condition is Traumatic Brain Injury and Emotional Disturbance. The district and the Tuolumne County Mental Health conducted a search of potential residential treatment programs. No other program was appropriate to meet all of the student's needs. The student had attended the school in 1998 and was successful resulting in his return to public school. His progress has regressed and needs the services of the school again.

The **Bancroft School** staff are highly trained and devoted to students with Traumatic Brain Injury. Department staff has checked all of the documents needed to approve a certification waiver of this type for this student.

The Department recommends this waiver request be approved.

Authority for the waiver: *Education Code* (EC) Section 56101

Bargaining unit(s) consulted on: N/A

Position of bargaining unit (choose only one): N/A

Neutral

Support

Oppose

Name of bargaining unit representative: N/A

SW-3
08/01

Local board approval date: SELPA Director signature

Effective dates of request: January 6, 2003 to December 31, 2003.

Fiscal Analysis (as appropriate): No known fiscal impacts

Background Information:

Waiver request forms and supporting documents are attached to this summary.

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
SEPTEMBER 2003 AGENDA
Item No. W-17

<p>TITLE: Request by Saddleback Valley Unified School District to waive <i>Education Code</i> (EC) Section 56366.1(a) certification for an uncertified nonpublic school, Sunhawk Academy located in Saint George, Utah to provide services to one special education student, Lauren B.</p> <p>CDSIS: 21-7-2003</p>	<p><u> X </u> ACTION <u> </u> INFORMATION <u> </u> PUBLIC HEARING <u> </u> CONSENT</p>
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RECOMMENDATION:

The Department recommends: Approval Denial

Summary of Previous State Board of Education Discussion and Action:

The State Board of Education has taken action on several previous nonpublic school certification waivers.

Summary of Key Issue(s):

The **Saddleback Valley Unified School District (SVUSD)** requests a waiver of EC 56366.1(a). This law establishes standards for non-profit, nonsectarian schools and agencies to follow to be certified to provide special education and designated instruction services (DIS) to students with disabilities. The district requests this waiver in order to place student, **Lauren B.** at **Sunhawk Academy** located in **Saint George, Utah.**

The emotionally disturbed student was unilaterally placed in a non-California approved residential nonpublic school by her parents in January 2003. An expanded IEP team recently recommended residential NPS placement. The student is doing very well at **Sunhawk Academy**. The IEP team feels it would be detrimental to the student to transfer her to another residential NPS.

The **Saddleback Valley Unified School District** look into numerous residential facilities and feels that this placement is the proper one for this particular student.

The **Sunhawk Academy** staff are highly trained and devoted to students with emotional and family problems, substance abuse, depression, defiance and academic problems.

The Department recommends this waiver request be approved.

Authority for the waiver: *Education Code* (EC) Section 56101

Bargaining unit(s) consulted on:

Position of bargaining unit (choose only one):

Neutral

Support

Oppose

Name of bargaining unit representative: NA

Local board approval date: SELPA Director signature

Effective dates of request: July 2, 2003-August 23, 2003

Fiscal Analysis (as appropriate): No known fiscal impacts

Background Information:

Waiver request forms and supporting documents are attached to this summary.



SEPTEMBER 2003 AGENDA

SUBJECT: Seminar Session on Mathematics	<input type="checkbox"/> ACTION
	<input checked="" type="checkbox"/> INFORMATION
	<input type="checkbox"/> PUBLIC HEARING

RECOMMENDATION:

Listen to an informational presentation on California's system of mathematics. Engage in discussion as the members may desire.

Summary of Previous State Board of Education Discussion and Action.

N/A.

Summary of Key Issue(s).

Informational presentation on California's system of mathematics, including the creation of the California Mathematics Standards, the instructional frameworks, and alignment to assessments. Invited presenters are:

- *Sue Stickel*, Deputy Superintendent, CDE Curriculum and Instruction Branch
- *Paul Clopton*, Biomedical Research Statistician, Veterans Affairs Medical Center, San Diego
- *Robert L. Trigg*, former member, CA State Board of Education, and retired superintendent of Elk Grove Unified School District
- *Hung-Hsi Wu*, Professor of Mathematics, University of California, Berkeley
- *Ze'ev Wurman*, Vice-President of Software Development, eASIC Corp., San Jose

Fiscal Analysis (as appropriate).

N/A.

Background Information Attached to this Agenda Item.

None.



SEPTEMBER 2003 AGENDA

SUBJECT Environmental Effect of Alhambra Unified School District from Alhambra City Elementary School District and Alhambra City High School District in Los Angeles County	X	ACTION
		INFORMATION
	X	PUBLIC HEARING

Recommendation:

Adopt a Negative Declaration (Attachment 1), which indicates no environmental effect.

Summary of Previous State Board of Education Discussion and Action

The State Board of Education has not heard this issue previously.

Summary of Key Issue(s)

The State Board of Education is the lead agency for all aspects of school district unifications, including the California Environmental Quality Act (CEQA) review process. Pursuant to past practice, California Department of Education (CDE) staff conducted an initial study (Attachment 2) and determined that there would be no significant adverse effect on the environment as a result of forming the Alhambra Unified School District. A copy of the Negative Declaration and initial study has been filed with the State Clearinghouse for state agency review (Attachment 3). Also, a legal notice of the September 11, 2003, public hearing has been published in a local newspaper of general circulation. Any comments received by CDE will be forwarded to the Board or presented verbally at the public hearing.

Fiscal Analysis (as appropriate)

There is no fiscal effect to adopting the proposed Negative Declaration.

Attachments

Attachment 1: Negative Declaration (Pages 1-1)

Attachment 2: Environmental Checklist Form (Pages 1-7)

Attachment 3: Notice of Completion & Environmental Document Transmittal (Pages 1-2) (This attachment not available on the Web)

NEGATIVE DECLARATION

1. Name, if any, and a brief description of project: **Formation of Alhambra Unified School District**, which is a unification of the existing Alhambra City Elementary School District and the Alhambra City High School District. This unification will exclude Garvey School District, which is component district of the Alhambra City High School District.
2. Location: **Los Angeles County**
3. Entity or person undertaking project: **California State Board of Education**

The California State Board of Education, having reviewed the Initial Study of this proposed project, and having reviewed the written comments received prior to the public meeting of the State Board of Education, including the recommendation of the California Department of Education's staff, does hereby find and declare that the proposed project will not have a significant effect on the environment. A brief statement of the reasons supporting the State Board of Education findings is as follows: **The unification itself will not involve or cause physical changes to the existing environment. Merely changing the political boundaries and the name of a school district will not have an environmental impact.**

The California State Board of Education hereby finds that the Negative Declaration reflects its independent judgment.

A copy of the Initial Study may be obtained at the California Department of Education, 1430 N Street, Suite 3800, Sacramento, CA 95814. Telephone: (916) 322-1468.

The location and custodian of the documents and any other material which constitute the record of proceedings upon which the California State Board of Education based its decision to adopt this Negative Declaration are as follows:

California Department of Education
1430 N Street, Suite 3800
Sacramento, CA 95814
Telephone: (916) 322-1468

ENVIRONMENTAL CHECKLIST FORM

1. Project title: Formation of Alhambra Unified School District

2. Lead agency name and address:

California State Board of Education

1430 N Street, Suite 5111, Sacramento, CA 95814

3. Contact person and phone number: Larry Shirey, 916 322-1468

4. Project location: Cities of Alhambra, Rosemead and Monterey Park in Los Angeles County

5. Project sponsor's name and address:

Governing Board, Alhambra City Elementary and High School Districts,

Fifteen West Alhambra Road, Alhambra, CA 91801

6. General plan designation: N/A

7. Zoning: N/A

8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)

Change of local governmental structure from city elementary/city high school districts to unified school district

9. Surrounding land uses and setting: (Briefly describe the project's surroundings)

Cities of Alhambra, Rosemead and Monterey Park; three current school districts – Alhambra City Elementary and High School Districts, Garvey Elementary School District

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreements.)

N/A

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially significant Impact" as indicated by the checklists on the following pages.

Land Use and Planning

Transportation/Circulation

Public services

Population and Housing

Biological Resources

Utilities and Service Systems

Geological Problems

Energy and Mineral Resources

Aesthetics

Water

Hazards

Cultural Resources

Air Quality

Noise

Recreation

Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A **NEGATIVE DECLARATION** will be prepared.
- I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that the proposed project **MAY** have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets, if the effect is a "potentially significant impact" or "potentially significant unless mitigated." An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, there **WILL NOT** be a significant effect in this case because all potentially significant effects (a) have been analyzed adequately in an earlier EIR pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR, including revisions or mitigation measures that are imposed upon the proposed project.

Signature

Date: 07/01/03

Printed name: Larry Shirey

For: California State Board of Education

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect is significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Potentially Significant Unless Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 1 5063(c)(3)(D). Earlier analyses are discussed in Section XVII at the end of the checklist.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated. See the sample question below. A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

7) This is only a suggested form, and lead agencies are free to use different ones.

Sample Question:

Issues (and Supporting Information Sources):

Would the proposal result in potential impacts involving:

- | | <i>Potentially Significant Impact</i> | <i>Potentially Significant Unless Mitigation Incorporated</i> | <i>Less than Significant Impact</i> | <i>No Impact</i> |
|------------------------------------|---------------------------------------|---|-------------------------------------|-------------------------------------|
| a) Landslides or mudslides? (1, 6) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

(Attached source list explains that 1 is the general plan, and 6 is a USGS topo map. This answer would probably not need further explanation.)

ENVIRONMENTAL IMPACTS:

I. LAND USE AND PLANNING. *Would the proposal:*

- | | <i>Potentially Significant Impact</i> | <i>Potentially Significant Unless Mitigation Incorporated</i> | <i>Less than Significant Impact</i> | <i>No Impact</i> |
|---|---------------------------------------|---|-------------------------------------|-------------------------------------|
| a) Conflict with general plan designation or zoning? (Source #:) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Be incompatible with existing land use in the vicinity? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Affect agricultural resources or operations (e.g., impacts to soils or farmlands, or impacts from incompatible land uses)? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Disrupt or divide the physical arrangement of an established community (including a low-income or minority community)? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

II. POPULATION AND HOUSING. *Would the proposal:*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Cumulatively exceed official regional or local population projections? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Induce substantial growth in an area either directly or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure)? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Displace existing housing, especially affordable housing? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

III. GEOLOGIC PROBLEMS. *Would the proposal result in or expose people to potential impacts involving:*

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Fault rupture? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Seismic ground shaking? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Seismic ground failure, including liquefaction? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Seiche, tsunami, or volcanic hazard? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Landslides or mudflows? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Erosion, changes in topography or unstable soil conditions from excavation, grading, or fill? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Subsidence of land? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) Expansive soils? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

- i) Unique geologic or physical features? ()

IV. WATER. *Would the proposal result in:*

- | | <i>Potentially
Significant
Impact</i> | <i>Potentially
Significant
Unless
Mitigation
Incorporated</i> | <i>Less than
Significant
Impact</i> | <i>No Impact</i> |
|--|---|---|---|-------------------------------------|
| a) Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Exposure of people or property to water related hazards such as flooding? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Discharge into surface waters or other alteration of surface water quality (e.g., temperature, dissolved oxygen or turbidity)? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Changes in the amount of surface water in any water body? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Changes in currents, or the course or direction of water movements? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations or through substantial loss of groundwater recharge capability? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Altered direction or rate of flow of groundwater? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) Impacts to groundwater quality? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| i) Substantial reduction in the amount of groundwater otherwise available for public water supplies? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

V. AIR QUALITY. *Would the proposal:*

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Violate any air quality standard or contribute to an existing or projected air quality violation? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Expose sensitive receptors to pollutants? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Alter air movement, moisture, or temperature, or cause any change in climate? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Create objectionable odors? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

VI. TRANSPORTATION/CIRCULATION. *Would the proposal result in:*

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Increased vehicle trips or traffic congestion? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Hazards to safety from design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Inadequate emergency access or access to nearby uses? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Insufficient parking capacity onsite or offsite? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Hazards or barriers for pedestrians or bicyclists? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Conflicts with adopted policies supporting alternative transportation (e.g., bus turnouts, bicycle racks)? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Rail, waterborne or air traffic impacts? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

VII. BIOLOGICAL RESOURCES. *Would the proposal result in impacts to:*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Endangered, threatened or rare species or their habitats (including but not limited to plants, fish, insects, animals, and birds)? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Locally designated species (e.g., heritage trees)? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Locally designated natural communities (e.g., oak forest, coastal habitat, etc.)? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Wetland habitat (e.g., marsh, riparian, and vernal pool)? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Wildlife dispersal or migration corridors? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

VIII. ENERGY AND MINERAL RESOURCES. *Would the proposal:*

- | | Potentially Significant Impact | Potentially Significant Unless Mitigation Incorporated | Less than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-------------------------------------|
| a) Conflict with adopted energy conservation plans? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Use nonrenewable resources in a wasteful and inefficient manner? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Result in the loss of availability of a known mineral resource that would be of future value to the region and the residents of the State? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

IX. HAZARDS. *Would the proposal involve:*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) A risk of accidental explosion or release of hazardous substances (including, but not limited to, oil, pesticides, chemicals, or radiation)? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Possible interference with an emergency response plan or emergency evacuation plan? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) The creation of any health hazard or potential health hazard? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Exposure of people to existing sources of potential health hazards? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Increased fire hazard in areas with flammable brush, grass, or trees? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

X. NOISE. *Would the proposal result in:*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Increases in existing noise levels? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Exposure of people to severe noise levels? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

XI. PUBLIC SERVICES. *Would the proposal have an effect upon, or result in a need for new or altered government services in any of the following areas:*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Fire protection? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Police protection? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Schools? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Maintenance of public facilities, including roads? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Other government services? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

XII. UTILITIES AND SERVICE SYSTEMS. *Would the proposal result in a need for new systems or supplies, or substantial alterations to the following utilities:*

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Power or natural gas? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Communications systems? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Local or regional water treatment or distribution facilities? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Sewer or septic tanks? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Storm water drainage? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Solid waste disposal? () | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

- g) Local or regional water supplies? ()

XIII. AESTHETICS. *Would the proposal:*

- a) Affect a scenic vista or scenic highway? ()
- b) Have a demonstrable negative aesthetic effect? ()
- c) Create light or glare? ()

XIV. CULTURAL RESOURCES. *Would the proposal:*

Potentially Significant Impact Potentially Significant Unless Mitigation Incorporated Less than Significant Impact No Impact

- a) Disturb paleontological resources? ()
- b) Disturb archaeological resources? ()
- c) Have the potential to cause a physical change which would affect unique ethnic cultural values? ()
- d) Restrict existing religious or sacred uses within the potential impact area? ()

XV. RECREATION. *Would the proposal:*

- a) Increase the demand for neighborhood or regional parks or other recreational facilities? ()
- b) Affect existing recreational opportunities? ()

XVI. MANDATORY FINDINGS OF SIGNIFICANCE.

- a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?
- b) Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals?
- c) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)
- d) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

XVII. EARLIER ANALYSES.

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case a discussion should identify the following on attached sheets:

- a) **Earlier analyses used.** Identify earlier analyses and state where they are available for review.
- b) **Impacts adequately addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

- c) **Mitigation measures.** For effects that are "Less than Significant with Mitigation Incorporated," describe the mitigation measures which are incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

Authority: Public Resources Code Sections 21083 and 21087.

Reference: Public Resources Code Sections 21080(c), 21080.1, 21083, 21083.3, 21093, 21094, 21151; *Sundstrum v. County of Mendocino*, 202 Cal.App.3d 296 (1988); *Leonoff v. Monterey Board of Supervisors*, 222 Cal.App.3d 1337 (1990).



SEPTEMBER 2003 AGENDA

SUBJECT	X	ACTION
Proposed Formation of Alhambra Unified School District from Alhambra City Elementary School District and Alhambra City High School District in Los Angeles County		INFORMATION
	X	PUBLIC HEARING

Recommendation:

Adopt the attached proposed resolution (Attachment 2) approving the petition to form a new Alhambra Unified School District (SD) from Alhambra City Elementary SD and Alhambra City High SD in Los Angeles County.

Summary of Previous State Board of Education Discussion and Action

The State Board of Education has not heard this item previously.

Summary of Key Issue(s)

Two elementary school districts (Alhambra City Elementary and Garvey) currently are component districts within the Alhambra City High SD. Resolutions proposing the unification of the Alhambra City High SD were submitted to the Los Angeles County Superintendent of Schools by the common governing board of the Alhambra City High SD and the Alhambra City Elementary SD. This resolution states that Garvey SD will not be affected by the unification proposal and will continue to enroll its secondary students in the proposed unified district under the same terms and conditions as existed previously in the high school district (Section 35542(b)).

The Los Angeles County Committee on School District Organization (LACC) found that all of the nine criteria in Section 35753(a) were substantially met. The LACC unanimously recommended approval of the Alhambra unification proposal. The governing board of Garvey SD supports the proposed unification, noting that the district would not be affected by the unification and would continue to function as a feeder school to the proposed Alhambra Unified SD.

California Department of Education staff finds that all nine criteria in *Education Code* Section 35753(a) are substantially met and recommends that the State Board of Education approve the proposal to form an Alhambra Unified SD. Staff’s analysis is provided as Attachment 1. A proposed resolution approving the petition is provided as Attachment 2 for the Board’s consideration.

Fiscal Analysis (as appropriate)

Based on estimated 2002-03 data, the revenue limit for the new Alhambra Unified SD is \$5,402.57 (Attachment 3). This estimated revenue limit includes adjustments for salary and benefit differentials, which are approximately \$9.4 million and represent the maximum 10% increase over the blended, or weighted average, revenue limit per ADA for the existing districts. Increases in revenue limit funding due to school district reorganization are not considered to be increased costs to the state since these funding increases are provided for in statute and are capped.

No other effects to state costs due to the reorganization have been identified.

Attachment(s)

- Attachment 1: Proposed Formation of Alhambra Unified School District in Los Angeles County, Report of Required Conditions for Reorganization (Pages 1-17)
- Attachment 2: Proposed Resolution (Pages 1-1)
- Attachment 3: Revenue Limit Worksheet for Reorganized School Districts (Pages 1-5)
(This attachment not available on the Web)
- Attachment 4: Alternate Resolution (Pages 1-1)
- Attachment 5: Denial Resolution (Pages 1-1)

PROPOSED FORMATION OF ALHAMBRA UNIFIED SCHOOL DISTRICT IN LOS ANGELES COUNTY

REPORT OF REQUIRED CONDITIONS FOR REORGANIZATION

1.0 RECOMMENDATION

Staff recommends that the State Board of Education (SBE) adopt the resolution in Attachment 2, which would approve the proposal to form Alhambra Unified School District (SD) from territory of the Alhambra City High SD. This proposal specifically excludes Garvey SD, an elementary school district currently within the high school district boundaries, from the unification. *Education Code* Section¹ 35542(b) gives the SBE the authority to exclude elementary districts from a proposal to unify a high school district.

2.0 BACKGROUND

Two elementary school districts (Alhambra and Garvey) currently are component districts within the Alhambra City High SD. Alhambra City Elementary SD and Alhambra City High SD are common administration districts with a common governing board.

A resolution² proposing the unification of the Alhambra City High SD was submitted to the Los Angeles County Superintendent of Schools by the governing board of the Alhambra City SDs. This resolution states that Garvey SD will not be affected by the unification proposal and will continue to enroll secondary students in the proposed unified district under the same terms and conditions as existed previously in the high school district (Section 35542(b)).

The county superintendent of schools is required to examine resolutions for a proposed school district organization and determine whether the resolutions are sufficient and signed as required by law (*Education Code* Section 35704). On November 6, 2002, the Los Angeles County Superintendent of Schools determined that the resolution for the unification of the Alhambra City High SD, submitted by the governing board of the Alhambra City SDs, was sufficient and signed as required by law.

Attachment 1

¹All subsequent statutory references are to the *Education Code* unless otherwise indicated.

²The Los Angeles County Office of Education has provided each member of the State Board of Education a copy of this resolution. No additional copy is included as an attachment to this agenda item.

At a deliberation meeting held March 5, 2003, the Los Angeles County Committee on School District Organization (LACC) unanimously found that all nine criteria in Section 35753(a) were substantially met. The LACC unanimously recommended approval of the Alhambra unification proposal³.

California Department of Education (CDE) staff finds that all nine criteria in *Education Code* Section 35753(a) are substantially met.

3.0 REASONS FOR THE UNIFICATION

The governing board of the Alhambra City SDs notes in its resolution that the unification would provide benefits that include “creation of a single basic governmental unit to provide K-12 education in the Alhambra community. This consolidation of local control permits local discretion, permits a single board to be responsible to local needs, and allows for participation of large numbers of community members in the consideration of the goals and objectives of local schools.”

4.0 POSITION OF GARVEY SCHOOL DISTRICT

The governing board of the Garvey SD adopted a resolution⁴ that:

- (a) Recognizes that the Garvey SD may petition to become part of the new Alhambra Unified SD or remain as a separate elementary district.
- (b) Determines that it is in the best interests of Garvey SD to remain a separate elementary district.
- (c) Does not oppose the Alhambra City SDs’ proposal to reorganize through unification.

5.0 SECTION 35753 CRITERIA

The State Board of Education (SBE) may approve proposals for the reorganization of districts if the Board has determined the proposal substantially meets the nine criteria in Section 35753. Those criteria are further clarified by Title 5, *California Code of Regulations*. Staff findings and conclusions regarding the Section 35753 and Title 5 conditions follow:

³The Los Angeles County Office of Education has provided each member of the State Board of Education a copy of the minutes from the LACC deliberation meeting. No additional copy is included as an attachment to this agenda item.

⁴The Los Angeles County Office of Education has provided each member of the State Board of Education a copy of this resolution. No additional copy is included as an attachment to this agenda item.

5.1 The new districts will be adequate in terms of number of pupils enrolled.

Standard of Review

It is the intent of the State Board that direct service districts not be created which will become more dependent upon county offices of education and state support unless unusual circumstances exist. Therefore, each district affected must be adequate in terms of numbers of pupils, in that each such district should have the following projected enrollment on the date the proposal becomes effective or any new district becomes effective for all purposes: Elementary district, 901; high school district, 301; unified district, 1,501. (Section 18573(a)(1)(A), Title 5, California Code of Regulations)

County Committee Evaluation/Vote

A report⁵ prepared by the Los Angeles County Office of Education (LACOE) was presented to the LACC projecting that enrollment in the new unified school district would be 19,690 in the first year of reorganization (2004-05). Garvey SD enrollment in 2004-05 is projected to be 6,492 students. The LACOE report also indicates that enrollment in the area is expected to decline slightly over the subsequent years.

The LACC voted unanimously that this criterion is substantially met.

Staff Findings/Conclusion

As stated previously, a new unified district is adequate in terms of number of pupils if projected enrollment is 1,501 or greater on the date the proposal becomes effective or any new district becomes effective for all purposes. The following table depicts 2002-03 CBEDS enrollment for all three current districts, as well as the combined enrollment for the proposed unified district.

District	2002 CBEDS Enrollment
Alhambra City Elementary SD	11,434
Alhambra City High SD	8,352
Garvey SD	6,859
Alhambra Unified SD	19,786

⁵The Los Angeles County Office of Education has provided each member of the State Board of Education a copy of this report. No additional copy is included as an attachment to this agenda item.

Enrollment in the proposed Alhambra Unified SD significantly exceeds the required 1,501. Staff concludes that this criterion is substantially met.

5.2 The districts are each organized on the basis of a substantial community identity.

Standard of Review

The following criteria from Section 18573(a)(2), Title 5, California Code of Regulations, should be considered to determine whether a new district is organized on the basis of substantial community identity: isolation; geography; distance between social centers; distance between school centers; topography; weather; community, school and social ties; and other circumstances peculiar to the area.

County Committee Evaluation/Vote

The LACOE report notes that the Alhambra City SDs have functioned with a common administration and a common governing board for over 100 years. Thus, the two districts already operate, for all intents and purposes, as a single district. The report further notes that the unification will have no negative effect on community identity since the community served by the districts is not changing.

The LACC voted unanimously that this criterion is substantially met.

Staff Findings/Conclusion

The new unified school district would correspond to the boundaries of the existing high school district. Therefore, a distinct educational community already exists within the boundaries of the proposed unified school district. In the past, this educational community has played an important role in establishing the community identity of the Alhambra area. The new unified school district should continue that role.

Additionally, the Alhambra City SDs already function with a common administration and common governing board. Thus, the unification would have little effect on community representation on the governing board or on the administrative structure of the district.

Staff finds that the proposed district would be organized on the basis of a substantial community identity since it would correspond to existing school district boundaries and the structure of the administration and governing board would not change. This criterion is substantially met.

5.3 The proposal will result in an equitable division of property and facilities of the

original district or districts.

Standard of Review

To determine whether an equitable division of property and facilities will occur, the California Department of Education reviews the proposal for compliance with the provisions of Education Code sections 35560 and 35564 and determines which of the criteria authorized in Section 35736 shall be applied. The California Department of Education also ascertains that the affected districts and county office of education are prepared to appoint the committee described in Section 35565 to settle disputes arising from such division of property. (California Code of Regulations, Title 5, Section 18573(a)(3))

County Committee Evaluation/Vote

The LACOE report indicates that, since the proposal is to combine districts, there will be no need to divide property or related obligations. At the time of the proposal, the Alhambra City Elementary SD and the Garvey SD had outstanding bonded indebtedness. The report states that estimated tax rates for property owners within affected districts would remain the same should the unification take place, implying that responsibility for this existing bonded indebtedness will not change as a result of unification.

The LACC voted unanimously that this criterion is substantially met.

Staff Findings/Conclusion

Staff concludes that this criterion has been met. Staff agrees that there will be no need to divide property, funds, and obligations. At the time the unification proposal was heard by the LACC, the Alhambra City Elementary SD and the Garvey SD each had existing outstanding general obligation bonds. The existing bonded indebtedness of Alhambra City Elementary SD, or any new debt incurred by the district prior to the unification, will remain the liability of property owners within the Alhambra City Elementary SD unless the voters within the new unified district agree to assume this debt. Any existing bonded indebtedness of the Garvey SD, or any new debt incurred by that district prior to the unification, will remain with the Garvey SD and not be a liability of the new unified school district.

5.4 The reorganization of the districts will not promote racial or ethnic discrimination or segregation.

Standard of Review

In Section 18573(a)(4), Title 5, California Code of Regulations, the State Board of Education set forth five factors to be considered in determining whether reorganization will promote racial or ethnic discrimination or segregation:

- (a) The current number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts, compared with the number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts if the proposal or petition were approved.*
- (b) The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the total district, and in each school of the affected districts.*
- (c) The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts and the effect of the proposal or petition on any desegregation plan or program of the affected districts, whether voluntary or court ordered, designed to prevent or alleviate racial or ethnic discrimination or segregation.*
- (d) The effect of factors such as distance between schools and attendance centers, terrain, geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an effect on the feasibility of integration of the affected schools.*
- (e) The effect of the proposal on the duty of the governing board of each of the affected districts to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of its cause.*

County Committee Evaluation/Vote

The following table summarizes the October 2001-02 CBEDS enrollment data presented in the LACOE report:

District	Minority Students	White Students
Alhambra City Elementary SD	91.3%	8.7%
Alhambra City High SD	93.1%	6.9%
Garvey SD	97.6%	2.4%

The report further notes that the proposed unification will not promote racial or ethnic discrimination or segregation since no students would change districts or schools and all districts would continue to be “minority majority” districts.

The LACC voted unanimously that this criterion is substantially met.

Staff Findings/Conclusion

The current (October 2002 CBEDS) percent of minority students in Alhambra City High SD and its two component elementary districts is depicted in the following table. The percent of minority students in a new Alhambra Unified SD also is displayed.

District	Percent Minority Students
Alhambra City Elementary SD	91.9%
Alhambra City High SD	93.5%
Garvey SD	97.7%
Alhambra Unified SD	92.6%

The unification proposes a consolidation of the Alhambra City SDs. Garvey SD will continue to operate its own K-8 programs and send secondary students to the new unified district under the same terms and conditions as existed previously in the high school district. Thus, the proposed unification will not cause any student to move from one school to another.

Staff finds that the proposed unification will not negatively affect (1) the districts' duty to take steps to alleviate any segregation of minority pupils in schools and (2) any factor that may have an effect on the feasibility of the integration of affected school. Given the lack of negative effects and the fact that no students will be displaced or transferred to different schools as a result of the proposal, staff finds that this criterion is substantially met.

5.5 The proposed reorganization will not result in any substantial increase in costs to the state.

Standard of Review

Education Code sections 35735 through 35735.2 mandate a method of computing revenue limits without regard to this criterion. Although the estimated revenue limit is provided in this section, only potential costs to the state other than those mandated by sections 35735 through 35735.2 are considered in analyzing a proposal for compliance with this criterion.

County Committee Evaluation/Vote

The LACOE report contained an estimated base revenue limit per average daily

attendance (ADA) of \$5,274 for the proposed new unified school district. The report further found that this new revenue limit is within the range allowed by *Education Code* Sections 35735 through 35735.2.

The LACC voted unanimously that this criterion is substantially met.

Staff Findings/Conclusion

Based on 2002-03 data from the Alhambra City SDs, LACOE, and CDE School Fiscal Services Division (SFSD), the blended Alhambra City Elementary SD and Alhambra City High SD revenue limit, including enhancements due to salary and benefit differentials, is estimated to be \$5,402.57 per ADA for the new district. The blended, or weighted average, revenue limit per ADA is revenue neutral and does not result in an increase in state costs. It is only the adjustment for salary and benefit differentials that yields new revenues. The revenue limit computation is included as Attachment 3. As stated previously, increases in revenue limit funding due to reorganization are not considered as increased costs to the state since these funding increases are provided for in statute and are capped.

The increase in revenue limit funding is based on the difference in average salary and benefit costs per employee between the elementary and high school districts. The intent behind the increase in funding is to cover the additional costs associated in bringing all employees onto the same salary schedule. Because the two districts currently operate under a common administration and thus are able to maintain a single salary schedule for both elementary and high school employees, no additional salary and benefit costs will be incurred if the proposed unification becomes effective. However, current statute allows for revenue limit increases due to differences in average salary and benefit costs between the districts, even if there will not be any costs incurred by the new district to put all employees on the same salary schedule. In the current revenue limit recalculation, these differences in average costs for salaries and benefit will result in an increase in annual revenue of \$9.4 million for the new district.

Should the proposed district become effective, the SFSD Principal Apportionment Unit, using information provided by LACOE, will calculate the actual revenue limit, including cost of living and any other adjustments, based on second prior fiscal year data (2002-03 ADA and revenue limit funding for a July 1, 2004 effective date).

Neither the proposed unified district nor the excluded Garvey SD would receive any other significant increases in state funding. Staff agrees with the LACC's finding that this criterion is substantially met.

5.6 The proposed reorganization will not significantly disrupt the educational programs in the proposed districts and districts affected by the proposed reorganization and will continue to promote sound education performance in those districts.

Standard of Review

The proposal or petition shall not significantly adversely affect the educational programs of districts affected by the proposal or petition, and the California Department of Education shall describe the districtwide programs, and the school site programs, in schools not a part of the proposal or petition that will be adversely affected by the proposal or petition. (Section 18573(a)(5), Title 5, California Code of Regulations)

County Committee Evaluation/Vote

The LACOE report states that the Alhambra City SDs, for all practical purposes have functioned as a unified school district for over 100 years. The districts have a common governing board, a common administration, and one central administrative office that serves all students in elementary and secondary programs. The report concludes that the unification will have no negative effect on the educational programs of any affected school district, and would have a positive effect by allowing the Alhambra City SDs to function more cohesively as one district.

The LACC voted unanimously that this criterion is substantially met.

Staff Findings/Conclusion

Currently, the Alhambra City Elementary SD and Alhambra City High SD operate under a common governing board and a common administration. Establishing a unified school district will generate additional revenue and provide opportunities to streamline operations.

Moreover, no students will be displaced or transferred to different schools as a result of the proposal. Thus, the unification should have minimal effect (if any) on the implementation of the educational program at the school site level.

Staff agrees with the LACC's finding that this criterion is substantially met.

5.7 The proposed reorganization will not result in a significant increase in school housing costs.

County Committee Evaluation/Vote

The LACOE report notes that the unification is an administrative change only and will not add or subtract from total housing resources. The report concludes that the proposed unification will not result in a significant increase in school housing costs.

The LACC voted unanimously that this criterion is substantially met.

Staff Findings/Conclusion

Since no students will be displaced or transferred to different schools as a result of the proposal, no additional facilities will be required as a consequence of the unification.

Staff agrees with the finding of the LACC that this criterion is substantially met.

5.8 The proposed reorganization is not primarily designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to an adjoining district.

County Committee Evaluation/Vote

The LACOE report states that the proposed unification is an administrative change that would affect only the districts and not homeowners. Therefore, the petition does not appear to be designed to result in a significant increase in property values.

The LACC voted unanimously that this criterion is substantially met.

Staff Findings/Conclusion

No evidence was presented to indicate that the proposed formation of the Alhambra Unified SD would increase property values in the petition area. Nor is there any evidence from which it can be discerned that any increase in property values could be the primary motivation for the proposed unification. Staff concludes this criterion has been substantially met.

5.9 The proposed reorganization will not cause a substantial negative effect on the fiscal management or fiscal status of the proposed district or any existing district affected by the proposed reorganization.

County Committee Evaluation/Vote

The LACOE report states that the newly formed Alhambra Unified SD will have adequate enrollment to generate revenues to continue to support educational programs. Additionally, the report finds that the unification will streamline the ability of the districts to deliver services to students, eliminate redundant paperwork (and its related cost), and allow for the most efficient deployment of district staff and resources.

The LACC voted unanimously that this criterion is substantially met.

Staff Findings/Conclusion

The Alhambra City Elementary SD and Alhambra City High SD operate under a common administration, with the districts sharing the same superintendent, business manager, and other office staff. Since the unification will result only in an administrative change of district status, the fiscal management or fiscal status of any district should not be negatively affected. Staff agrees with the LACOE report that unification will help streamline and increase efficiency in operations of the new district.

As a result of the unification, the new unified district will receive a blended, or weighted average, revenue limit. Additionally, this blended revenue limit is adjusted for salary and benefit differentials (see 5.5 above). Thus, the unified district will receive more revenue limit funding than would be received by the combined Alhambra City SDs and, since the two districts already have common salary schedules, will incur little if any additional expenses as a result of the reorganization. Thus, the new unified district will have more funds that may be used for programs.

Staff agrees with the LACC's finding that this criterion is substantially met.

6.0 COUNTY COMMITTEE SECTION 35707 REQUIREMENTS

Section 35707 requires the county committee to make certain findings and recommendations and to expeditiously transmit them along with the reorganization petition to the SBE. These required findings and recommendations are:

6.1 County Committee Recommendation for the Petition

A county committee must recommend to the SBE approval or disapproval of a petition for unification. The LACC voted unanimously to recommend approval of the proposal to form Alhambra Unified SD.

6.2 Effect on School District Organization of the County

A county committee must report to the SBE whether the proposal would adversely affect countywide school district organization. The LACC voted unanimously that the proposal would not adversely affect countywide school district organization.

6.3 County Committee Recommendation

A county committee must submit to the SBE its opinion regarding whether the proposal complies with the provisions of Section 35753. The LACC voted unanimously that the proposal complies with all criteria in Section 35753.

7.0 STAFF RECOMMENDED AMENDMENTS TO THE PETITION

The SBE has authority to amend or add certain provisions to any petition for unification. This section contains CDE staff recommendations for such amendments.

7.1 Article 3 Amendments

Petitioners may include, and the county committee or SBE may add or amend, any of the appropriate provisions specified in Article 3 of the *Education Code* (commencing with Section 35730). These provisions include:

Membership of Governing Board

A proposal for unification may include a provision for a governing board of seven members. Alhambra City SDs are requesting that the SBE waive requirements that the new district elect a new governing board. Thus, the proposal contains no provision for a seven member governing board.

Trustee Areas

The proposal for unification may include a provision for establishing trustee areas for the purpose of electing governing board members of the unified district. No provision for trustee areas is contained in the unification proposal as presented by the Alhambra City SDs.

Election of Governing Board

A proposal for unification may include a provision specifying that the election for the first governing board be held at the same time as the election on the unification of the school district. Alhambra City SDs are requesting that the SBE waive requirements that the new district elect a new governing board. Thus, the proposal contains no provision for the timing of the election of a new governing board.

Computation of Base Revenue Limit

A proposal for reorganization of school districts must include a computation of the base revenue limit per ADA for each reorganized district. The submittal by the LACOE contained an estimation of the base revenue limit for Alhambra Unified SD of \$5,274 per ADA based upon 2001-02 data. Working with staff from LACOE and the Alhambra City SDs, CDE staff obtained an estimated base revenue limit based on 2002-03 data. This base revenue limit computation of \$5,402.57 per ADA is contained in Attachment 3.

Division of Property and Obligations

A proposal for the division of property (other than real property) and obligations of any district whose territory is being divided among other districts may be included. Since no district is divided as a result of the current unification proposal, there will be no division of property and obligations.

Method of Dividing Bonded Indebtedness

A proposal for unification may include a method of dividing the bonded indebtedness other than the method established in Section 35576 for the purpose of providing greater equity in the division. No current bonded indebtedness will be divided as a result of the unification proposal.

CDE Staff Recommendation for Article 3 Amendments

CDE staff recommends that the SBE include no Article 3 provisions in its approved proposal for unification of the Alhambra City SDs. This recommendation is based upon an assumption that the SBE approves the Alhambra City SDs requests for waiver of requirements for an election of a new governing board. Should the SBE deny the waiver requests, staff recommends that the SBE include a provision specifying that the election for the first governing board be held at the same time as the election on the unification of the school district, with the three candidates receiving the greatest number of votes given four-year terms and the two candidates with next greatest numbers of votes given two-year terms.

7.2 Area of Election

A provision specifying the territory in which the election to reorganize the school districts will be held is one of the provisions under Article 3 (see 7.1 above) that the SBE may add or amend. However, the inclusion of this provision is highlighted since Section 35756 indicates that, should the SBE approve the proposal, the SBE must determine the area of election.

Alhambra City SDs are requesting that the SBE waive requirement that the unification proposal be approved by local voters. However, should the SBE not grant this waiver request, an election must be called and an election area determined. The area proposed for reorganization is the entire Alhambra City High SD. Thus, the “default” election area is the entire high school district (Section 35732). The SBE may alter this “default” election area if it determines that such alteration complies with the following area of election legal principles.

Area of Election Legal Principles

The Local Agency Formation Commission (LAFCO)⁶ court decision provides the most current legal interpretations to be followed in deciding the area of school district reorganization elections. This decision upheld a limited area of election on a proposal to create a new city, citing the "rational basis test." The rational basis test may be used to determine whether the area of election should be less than the total area of the district affected by the proposed reorganization unless there is a declared public interest underlying the determination that has a real and appreciable impact upon the equality, fairness, and integrity of the electoral process, or racial issues. If so, a broader area of election is necessary.

In applying the rational basis test, a determination must be made as to whether:

There is a genuine difference in the relevant interests of the groups, in which case an enhancement of the minority voting strength is permissible.

The reduced voting area has a fair relationship to a legitimate public purpose. The fair relationship to a legitimate public purpose is found in *Government Code* Section 56001, which expresses the legislative intent "to encourage orderly growth and development," such as promoting orderly school district reorganization statewide that

Attachment 1

⁶*Board of Supervisors of Sacramento County, et al., v. Local Agency Formation Commission (3 Cal. 4th 903, 1992)*

allows for planned, orderly community-based school systems that adequately address transportation, curriculum, faculty, and administration. This concept includes both:

- (a) Avoiding the risk that residents of the area to be transferred, annexed, or unified might be unable to obtain the benefits of the proposed reorganization if it is unattractive to the residents of the remaining district; and
- (b) Avoiding islands of unwanted, remote, or poorly served school communities within large districts.

However, even under the rational basis test, a determination to reduce the area of election would, according to LAFCO, be held invalid if the determination constituted an invidious discrimination in violation of the constitutional Equal Protection Clause (e.g., involving a racial impact of some degree).

CDE Staff Recommendation for Area of Election

Should the SBE not grant the Alhambra City SDs' request for a waiver of the requirement that local voters approve the unification proposal, staff recommends that the entire Alhambra City High SD as the area of election should the SBE approve the unification proposal. The Alhambra Unified SD will provide the secondary education program for students residing within the Garvey SD. Voters within this excluded elementary school district also will vote for governing board members of the unified district and general obligation bond measures targeted for secondary facilities.

7.3 Exclusion of Component Elementary Districts

Education Code section 35542(b), added by Chapter 1186, Statutes of 1994, provides that:

“[A]n elementary school district that has boundaries that are totally within a high school district may be excluded from an action to unify those districts if the governing board receives approval for an exclusion from the State Board of Education. Any elementary school district authorized by the State Board of Education to be excluded from an action to unify, may continue to feed into the coterminous high school under the same terms that existed before any action to unify”

Circumstances of Current Unification Proposal

This unification proposal specifically states that Garvey SD is unaffected by the unification proposal, thus assuming exclusion of this component elementary district from unification of the high school district. However, it is clear from Section 35542(b) that only the SBE has authority to approve exclusion of component elementary districts and that such exclusion is discretionary.

CDE Staff Recommendation for Exclusion of Component Districts

CDE staff recommends the exclusion of Garvey SD from the proposed unification. The proposed unification was developed and analyzed at the local level with the assumption that Garvey SD would be excluded from the unification.

8.0 STATE BOARD OF EDUCATION OPTIONS

For this unification proposal, SBE options are:

- (a) The SBE shall approve or disapprove the proposal.
- (b) The SBE may approve the proposal if it determines all the criteria in Section 35753(a) have been substantially met.
- (c) The SBE may approve the proposal pursuant to Section 35753(b) if it determines the criteria in Section 35753(a) are not substantially met but it is not possible to apply the criteria literally and an exceptional situation exists.
- (d) If the SBE approves the proposed unification, it may exclude the Garvey SD from the unification (Section 35542(b)).
- (e) If the SBE approves the proposed unification, it may amend or include in the proposal any of the appropriate provisions of Article 3, commencing with Section 35730 of the *Education Code*. In this case, the petitioning districts have requested the SBE waive requirements for the election and composition of a new governing board. Should the SBE approve these waivers, no added provisions regarding the new governing board are necessary.
- (f) For unification proposals, the SBE must determine the area of election (Section 35756). However, the Alhambra City SDs are requesting that the SBE waive the requirement for an election. Should the SBE approve this waiver, no provisions regarding the election area are necessary.

9.0 RECOMMENDED ACTION

Staff recommends that the SBE approve the proposed unification of Alhambra City High SD and the Alhambra City Elementary SD only if it also excludes Garvey SD from the unification. Failure to exclude this component district would eliminate a key component of the locally developed unification plan, which was developed and analyzed at the local level with the assumption that Garvey would be excluded from the unification. A proposed resolution incorporating approval of all waivers requested by the Alhambra SDs' governing board is included as Attachment 2.

Should the SBE not approve the waiver requests, staff recommends that the unification proposal be amended to include the following provisions:

- (a) The initial election of the governing board will be held at the same time as the election on unification, with the three candidates receiving the greatest number of votes given four-year terms and the two candidates with next greatest numbers of votes given two-year terms;
 - (b) The entire Alhambra City High SD will be established as election area.
- An alternate resolution addressing the above recommendations is included as Attachment 4.

Finally, a denial resolution is provided as Attachment 5 should the SBE decide to disapprove the unification proposal.

CALIFORNIA STATE BOARD OF EDUCATION
September 2003

PROPOSED RESOLUTION

Petition to Form the Alhambra Unified School District
from the Alhambra City Elementary School District
and the Alhambra City High School District
in Los Angeles County

RESOLVED, that under the authority of *Education Code* Section 35754, the proposal to form a new unified school district from the Alhambra City Elementary School District and the Alhambra City High School District, which was filed on or about September 6, 2002, with the Los Angeles County Superintendent of Schools pursuant to Education Code Section 35700(a) and Section 35542(b), is hereby approved.

RESOLVED further, that the base revenue limit per unit of average daily attendance for the new unified district is estimated to be \$5,402.57 and shall be recalculated using second prior fiscal year data from the time the unification becomes effective for all purposes; and be it

RESOLVED further, that the Garvey School District shall be excluded from the action to unify the high school district and residents of the excluded elementary district may continue to enroll their children in the new unified school district under the same terms and conditions as existed previously in the high school district; and be it

RESOLVED further, that the governing board of the new unified district shall be the existing common governing board of the Alhambra City School Districts; and be it

RESOLVED further, that the new Alhambra Unified School District shall be effective for all purposes on July 1, 2004; and be it

RESOLVED further, that the Executive Director of the State Board of Education shall notify, on behalf of said Board, the Los Angeles County Superintendent of Schools, the chief petitioners, and the Garvey School District of the action taken by the State Board of Education.

CALIFORNIA STATE BOARD OF EDUCATION
September 2003

ALTERNATE RESOLUTION

Petition to Form the Alhambra Unified School District
from the Alhambra City Elementary School District
and the Alhambra City High School District
in Los Angeles County

RESOLVED, that under the authority of *Education Code* Section 35754, the proposal to form a new unified school district from the Alhambra City Elementary School District and the Alhambra City High School District, which was filed on or about September 6, 2002, with the Los Angeles County Superintendent of Schools pursuant to *Education Code* Section 35700(a) and Section 35542(b), is hereby approved.

RESOLVED further, that the base revenue limit per unit of average daily attendance for the new unified district is estimated to be \$5,402.57 and shall be recalculated using second prior fiscal year data from the time the unification becomes effective for all purposes; and be it

RESOLVED further, that the Garvey School District shall be excluded from the action to unify the high school district and residents of the excluded elementary district may continue to enroll their children in the new unified school district under the same terms and conditions as existed previously in the high school district; and be it

RESOLVED further, that the governing boards shall consist of five members elected at large, with the first governing board election held at the same time as the election on the unification and the three candidates receiving the greatest number of votes at this election given four-year terms and the two candidates with next greatest numbers of votes given two-year terms; and be it

RESOLVED further, that the State Board of Education shall direct the county superintendent of schools to call for the election and sets the area of election to be the territory of the entire Alhambra City High School District; and be it

RESOLVED further, that the Executive Director of the State Board of Education shall notify, on behalf of said Board, the Los Angeles County Superintendent of Schools, the chief petitioners, and the Garvey School District of the action taken by the State Board of Education.

CALIFORNIA STATE BOARD OF EDUCATION
September 2003

DENIAL RESOLUTION

Petition to Form the Alhambra Unified School District
from the Alhambra City Elementary School District
and the Alhambra City High School District
in Los Angeles County

RESOLVED, that under the authority of Education Code Section 35754, the proposal to form a new unified school district from the Alhambra City Elementary School District and the Alhambra City High School District, which was filed on or about September 6, 2002, with the Los Angeles County Superintendent of Schools pursuant to Education Code Section 35700(a) and Section 35542(b), is hereby disapproved; and be it

RESOLVED further, that the Executive Director of the State Board of Education notify, on behalf of said Board the Los Angeles County Superintendent of Schools, the chief petitioners, and the Garvey School District of the action taken by the State Board of Education.



SEPTEMBER 2003 AGENDA

SUBJECT AB 466 Mathematics and Reading Professional Development Program (Chapter 737, Statutes of 2001): Including, but not limited to, rescinding previous action approving contract to create an archive of approved training curricula, and manage the review of training curricula submitted for Board approval, and instead approve consolidating services under the contract in one new local education agency.	X	ACTION
	X	INFORMATION
		PUBLIC HEARING

Recommendation:

Rescind previous action approving the contract with the Sacramento County Office of Education for creating an archive of approved training curricula, producing quarterly reports on the contents of the archive, and managing the review of training curricula submitted for Board, and in its place approve consolidating services under the contract in one location at the local education agency.

Summary of Previous State Board of Education Discussion and Action

At its May 2003 meeting, the Board approved extension (through June 2004) of a contract with the Sacramento County Office of Education for creating an archive of approved training curricula, producing quarterly reports on the content of the archives, and managing the review of training curricula submitted for Board approval. As of this date, that contract has not yet been executed.

Summary of Key Issue(s)

Under the Sacramento County Office of Education contract, Sacramento County managed the reviews for the reading and math providers, but subcontracted the actual reviews of the math providers to Orange County Department of Education.

Since the Board’s approval of the contract extension, the number of reading and math professional development providers seeking to be approved as AB 466 providers has dramatically decreased. This decrease in work load allows for the consolidation of services, and resulting cost saving, by rescinding the approved, but unexecuted, AB 466 contract with Sacramento County Office of Education and approval of a contract with a single local education agency to create an archive of approved training curricula, produce quarterly reports on the contents of the archive, and manage the review of training curricula submitted for Board approval.

Fiscal Analysis (as appropriate)

Some cost savings as a result of consolidating work in one rather than two county offices of education.

Attachment(s)

None



SEPTEMBER 2003 AGENDA

SUBJECT		ACTION
Board Member Ethics Training as Required by Government Code Sections 11146-11146.4.		INFORMATION
	X	INFORMATION
		PUBLIC HEARING

Recommendation:

Participate in and complete required ethics training (unless training was previously completed).

Summary of Previous State Board of Education Discussion and Action

Government Code sections 11146-11146.4 have been amended to require that all persons who file Form 700 Statement of Economic Interest must also complete an Ethics Training Course by a specified date. Periodically, opportunities are provided for new and continuing State Board members to complete this requirement.

Summary of Key Issue(s)

Ethics training can be completed online or by viewing a two and one half hour video. For those Board Members that have not completed the online training and submitted the certificate of completion, the Ethics Training video course will be provided on Thursday, September 11, 2003, after the completion of all other items of business. The Ethics Training will take approximately two hours, at the conclusion of which the State Board meeting will be adjourned.

Fiscal Analysis (as appropriate)

None

Attachment(s)

None