California State Board of Education
Meeting Agenda Items for November 8-9, 2017
ARTICLE I

Authority

The California State Board of Education is established in the Constitution of the State of California and empowered by the Legislature through the California Education Code.

ARTICLE II

Powers and Duties

The Board establishes policy for the governance of the state's kindergarten through grade twelve public school system as prescribed in the Education Code, and performs other duties consistent with statute.

ARTICLE III

Members

APPOINTMENT

Section 1.

The State Board of Education consists of 11 members who are appointed by the Governor with the advice and consent of two-thirds of the Senate.

CC, Art. IX, Sec. 7
EC 33000 and 33000.5

TERM OF OFFICE

Section 2.

a. The term of office of the members of the Board is four years, except for the student member whose term is one year.

b. Except for the student member, who serves a one-year term, terms expire on January 15 of the fourth year following their commencement. Members, other than the student member, continue to serve until the appointment and qualification of their successors to a maximum of 60 days after the expiration of their terms. If the member is not reappointed and no successor is appointed within that 60-day period, the member may no longer serve and the position is deemed vacant. The term of the student member begins on August 1 and ends on July 31 of the following year.

c. If the Senate refuses to confirm, the person may continue to serve until 60 days have elapsed since the refusal to confirm or until 365 days have elapsed since the person first began performing the duties of the office, whichever occurs first.
d. If the Senate fails to confirm within 365 days after the day the person first began performing the duties of the office, the person may not continue to serve in that office following the end of the 365-day period.

EC 33001; 33000.5
GC 1774

VACANCIES

Section 3.

Any vacancy shall be filled by appointment by the Governor, subject to confirmation by two-thirds of the Senate. The person appointed to fill a vacancy shall hold office only for the balance of the unexpired term.

EC 33002

STUDENT MEMBER

Section 4.

Finalists for the student member position shall be selected and recommended to the Governor as prescribed by law.

EC 33000.5

COMPENSATION AND EXPENSES

Section 5.

Members of the Board shall receive their actual and necessary travel expenses while on official business. Each member shall also receive one hundred dollars ($100) for each day he or she is acting in an official capacity.

EC 33006
GC 11564.5

CONFLICT OF INTEREST CODE

Section 6.

Board members shall file statements of economic interest as required by the Fair Political Practices Commission. The terms of a standard Conflict of Interest Code, adopted by the Commission and as may be amended, are incorporated by reference and constitute the Conflict of Interest Code of the Board.

2 CCR 18730
5 CCR 18600

ARTICLE IV

Officers and Duties

PRESIDENT, VICE PRESIDENT
Section 1.

Officers of the Board shall be a president and a vice president. No member may serve as both president and vice president at the same time.

Section 2.

a. The president and vice president shall be elected annually in accordance with the procedures set forth in this section.

b. At the January meeting, the State Superintendent of Public Instruction shall ask members to nominate individuals for the office of president. At that same meeting, the president shall ask Board members to nominate individuals for the office of vice president. Any nomination for office must be seconded. No member may nominate or second the nomination for himself or herself for either office.

c. Six votes are necessary to elect an officer, and each officer elected shall serve for one year or until his or her successor is elected.

d. If, in the Board's judgment, no nominee for the office of president or vice president can garner sufficient votes for election to that office at the January meeting, a motion to put the election over to a subsequent meeting is in order.

e. Newly elected officers shall assume office immediately following the election.

f. In the event a vacancy occurs in the office of president or vice president during a calendar year, an election shall be held at the next meeting. Any member interested in completing the one-year term of an office that has become vacant may nominate himself or herself, but each nomination requires a second.

g. The State Superintendent of Public Instruction shall preside only during the election proceedings for the office of president and for the conduct of any other business that a majority of the Board members may direct.

EXECUTIVE OFFICER

Section 3.

The State Superintendent of Public Instruction shall be secretary and shall act as executive officer of the Board.

EC 33004

DUTIES OF THE PRESIDENT

Section 4.

The president shall:

- serve as spokesperson for the Board;
- represent the position of the Board to the State Superintendent of Public Instruction;
- appoint members to serve on committees and as liaisons, as prescribed in these Bylaws, and as may be needed in his or her judgment properly to fulfill the Board's responsibilities;
- serve as an ex officio voting member of the Screening Committee and any ad hoc committees, either by substituting for an appointed member who is not present with no change in an affected committee's quorum requirement, or by serving as an additional member with the affected committee's quorum requirement being increased if necessary;
- preside at all meetings of the Board and follow-up with the assistance of the executive director to see that
agreed upon action is implemented;

- serve, as necessary, as the Board's liaison to the National Association of State Boards of Education, or designate a member to serve in his or her place;
- serve, or appoint a designee to serve, on committees or councils that may be created by statute or official order where required or where, in his or her judgment, proper carrying out of the Board's responsibility demands such service;
- keep abreast of local, state, and national issues through direct involvement in various conferences and programs dealing with such issues, and inform Board members of local, state, and national issues;
- participate in selected local, state, and national organizations, which have an impact on public education, and provide to other members, the State Superintendent, and the staff of the Department of Education the information gathered and the opinion and perspective developed as the result of such active personal participation;
- provide direction for the executive director;
- and, along with the executive director, direct staff in preparing agendas for Board meetings, in consultation with other members as permitted by law, and determine priorities for the expenditure of board travel funds.

DUTIES OF THE VICE PRESIDENT

Section 5.

The vice president shall:

- preside at Board meetings in the absence of the president;
- represent the Board at functions as designated by the president; and
- fulfill all duties of the president when he or she is unable to serve.

DUTIES OF COMMITTEE CHAIR

Section 6.

The chair of the Screening Committee or any ad hoc committee shall:

- preside at meetings of the committee he or she chairs, except that he or she shall yield the chair to another committee member in the event he or she will be absent or confronts a conflict regarding any matter coming before the committee, and may yield the chair to another committee member for personal reasons; and
- in consultation with the president, other committee members, and appropriate staff, assist in the preparation of committee agendas and coordinate and facilitate the work of the committee in furtherance of the Board's goals and objectives.

DUTIES OF LIAISON OR REPRESENTATIVE

Section 7.

A Board member appointed as a liaison or representative shall:

- serve as an informal (non-voting) link between the Board and the advisory body or agency (or function) to which he or she is appointed as liaison or representative; and
- reflect the position of the Board, if a position is known to him or her, on issues before the advisory body or agency (or within the function) to which he or she is appointed as liaison or representative and keep the Board
appropriately informed.

DUTIES OF A BOARD MEMBER APPOINTED TO ANOTHER AGENCY

Section 8.

The member shall:

- to every extent possible, attend the meetings of the agency and meet all responsibilities of membership; and
- reflect through his or her participation and vote the position of the Board, if a position is known to him or her, and keep the Board informed of the agency’s activities and the issues with which it is dealing.

ARTICLE V

Meetings

REGULAR MEETINGS

Section 1.

Generally, regular meetings of the Board shall be held on the Wednesday and Thursday preceding the second Friday of each of the following months: January, March, May, July, September, and November. However, in adopting a specific meeting schedule, the Board may deviate from this pattern to accommodate state holidays and special events. Other regularly noticed meetings may be called by the president for any stated purpose.

EC 33007

SPECIAL MEETINGS

Section 2.

Special meetings may be called to consider those purposes specified in law if compliance with the 10-day notice would impose a substantial hardship on the board or if immediate action is required to protect the public interest.

OPEN MEETINGS

Section 3.

a. All meetings of the Board, except the closed sessions permitted by law, and all meetings of Board committees, to the extent required by law, shall be open and public.

b. All meetings shall conform to the Bagley-Keene Open Meeting Act, including requirements for notices of meetings, preparation and distribution of agendas and written materials, inspection of public records, closed sessions and emergency meetings, maintenance of records, and disruption of a public meeting. Those provisions of law which govern the conduct of meetings of the Board are hereby incorporated by reference into these Bylaws.

c. Unless otherwise provided by law, meetings of any advisory body, committee or subcommittee thereof, created by statute or by formal action of the Board, which is required to advise or report or recommend to the Board, shall be open to the public.
NOTICE OF MEETINGS

Section 4.

a. Notice of each regular meeting shall be posted at least 10 days prior to the time of the meeting and shall include the time, date, and place of the meeting and a copy of the meeting agenda.

b. Notice of any meeting of the Board shall be given to any person so requesting. Upon written request, individuals and organizations wishing to receive notice of meetings of the Board will be included on the mailing list for notice of regular meetings.

SPECIAL MEETINGS (ADDITIONAL PROVISIONS)

Section 5.

a. Special meetings may be called by the president or by the secretary upon the request of any four members of the board for the purposes specified in law if compliance with the 10-day notice requirements would impose a substantial hardship on the board or if immediate action is required to protect the public interest.

b. Notice of special meetings shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting. Notice shall also be provided to all national press wire services. Notice to the general public shall be made by placing it on appropriate electronic bulletin boards if possible.

c. Upon commencement of a special meeting, the board shall make a finding in open session that giving a 10-day notice prior to the meeting would cause a substantial hardship on the board or that immediate action is required to protect the public interest. The finding shall be adopted by a two-thirds vote of the board or a unanimous vote of those members present if less than two-thirds of the members are present at the meeting.

EMERGENCY MEETINGS

Section 5.

a. An emergency meeting may be called by the president or by the secretary upon the request of any four members without providing the notice otherwise required in the case of a situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities and which is properly a subject of an emergency meeting in accordance with law.

b. The existence of an emergency situation shall be determined by concurrence of six of the members during a meeting prior to an emergency meeting, or at the beginning of an emergency meeting, in accordance with law.

c. Notice of an emergency meeting shall be provided in accordance with law.

CLOSED MEETINGS
Section 6.

Closed sessions shall be held only in accordance with law.

GC 11126

QUORUM

Section 7.

a. The concurrence of six members of the Board shall be necessary to the validity of any of its acts.

EC 33010

b. A quorum of any Board committee shall be a majority of its members, and a committee may recommend actions to the Board with the concurrence of a majority of a quorum.

ORDER OF BUSINESS

Section 8.

The order of business for all regular meetings of the Board shall generally be:

- Call to Order
- Salute to the Flag
- Communications
- Announcements
- Report of the State Superintendent of Public Instruction
- Special Presentations
- Agenda Items
- Adjournment

CONSENT CALENDAR

Section 9.

a. Non-controversial matters and waiver requests meeting established guidelines may be presented to the Board on a consent calendar.

b. Items may be removed from the consent calendar upon the request of an individual Board member or upon the request of Department staff authorized by the State Superintendent of Public Instruction to submit items for consideration by the Board.

c. Items removed from the consent calendar shall be referred to a standing committee or shall be considered by the full Board at the direction of the president.

ARTICLE VI

Committees and Representatives

SCREENING COMMITTEE

Section 1.
a. The president shall appoint a Screening Committee composed of at least three Board members to screen and interview applicants for appointment to Board advisory bodies and other positions as necessary; participate, as directed by the president, in the selection of candidates for the position of student Board member in accordance with law; and recommend appropriate action to the Board. The president shall designate one Board member as Chair of the Screening Committee.

b. In consultation with the chair, the president may appoint additional Board members, such as the appointed Board liaison, to serve as voting members of the Screening Committee on a temporary basis. In accordance with Section 4 of these bylaws, the president may also serve as an ex officio member of the Screening Committee. The quorum requirement shall be increased as necessary to include the total number of Board members, including temporary members, appointed to serve on the Committee for that purpose.

c. As necessary, the chair may create an ad hoc subcommittee of the Screening Committee to assist the Screening Committee with its duties.

AD HOC COMMITTEES

Section 2.

From time to time, the president may appoint ad hoc committees for such purposes as he or she deems necessary. Ad hoc committees shall remain in existence until abolished by the president.

REPRESENTATIVES

Section 3.

From time to time, the president may assign Board members the responsibility of representing the State Board in discussions with staff (as well as with other individuals and agencies) in relation to such topics as assessment and accountability, legislation, and implementation of federal and state programs. The president may also assign Board members the responsibility of representing the Board in ceremonial activities.

ARTICLE VII

Public Hearings: General

SUBJECT OF A PUBLIC HEARING

Section 1.

a. The Board may hold a public hearing regarding any matter pending before it after giving notice as required by law.

b. The Board may direct that a public hearing be held before staff of the Department of Education, an advisory commission to the Board, or a standing or ad hoc committee of the Board regarding any matter which is or is likely to be pending before the Board. If the Board directs that a public hearing be held before staff, then a recording of the public hearing and a staff-prepared summary of comments received at the public hearing shall be made available in advance of the meeting at which action on the pending matter is scheduled in accordance with law.

5 CCR 18460
TIME LIMITS FOR THE PRESENTATION OF PUBLIC TESTIMONY

Section 2.

At or before a public hearing, the presiding individual shall (in keeping with any legal limitation or condition that may pertain) determine the total amount of time that will be devoted to hearing oral comments, and may determine the time to be allotted to each person or to each side of an issue.

W A I V E R B Y P R E S I D I N G I N D I V I D U A L

Section 3.

At any time, upon a showing of good cause, the presiding individual may waive any time limitation established under Section 3 of this article.

A R T I C L E V I I I

Public Hearings: School District Reorganization

SUBMISSION OF PROPOSALS AND PETITIONS

Section 1.

A proposal by a county committee on school district organization or other public agency, or a petition for the formation of a new district or the transfer of territory of one district to another shall be submitted to the executive officer of the Board. The executive officer of the Board shall cause the proposal or petition to be:

- reviewed and analyzed by the California Department of Education;
- set for hearing before the Board (or before staff if so directed by the Board) at the earliest practicable date; and
- transmitted together with the report and recommendation of the Department of Education to the Board (or to the staff who may be directed by the Board to conduct the hearing) and to such other persons as is required by law not later than ten days before the date of the hearing.

ARGUMENTS PRESENTED AT THE PUBLIC HEARING: ORIGINAL SUBMISSION

Section 2.

At the time and place of hearing, the Board (or staff if so directed by the Board) will receive oral or written arguments
on the proposal or petition. The presiding individual may limit the number of speakers on each side of the issue, limit the time permitted for the presentation of a particular view, and limit the time of the individual speakers. The presiding individual may ask that speakers not repeat arguments previously presented.

CCR 18571

RESUBMISSION OF THE SAME OR ESSENTIALLY IDENTICAL PROPOSAL OR PETITION

Section 3.

If the same or an essentially identical proposal or petition has been previously considered by the Board, the documents constituting such a resubmission shall be accompanied by a written summary of any new factual situations or facts not previously presented. In this case, any hearing shall focus on arguments not theretofore presented and hear expositions of new factual situations and of facts not previously entered into the public record.

CCR 18572

ARTICLE IX

Public Records

Public records of the Board shall be available for inspection and duplication in accordance with law, including the collection of any permissible fees for research and duplication.

GC 6250 et seq.

ARTICLE X

Parliamentary Authority

RULES OF ORDER

Section 1.

Debate and proceedings shall be conducted in accordance with Robert's Rules of Order (Newly Revised) when not in conflict with rules of the Board and other statutory requirements.

Section 2.

Members of the public or California Department of Education staff may be recognized by the president of the Board or other presiding individual, as appropriate, to speak at any meeting. Those comments shall be limited to the time determined by the president or other presiding individual. All remarks made shall be addressed to the president or other presiding individual. In order to maintain appropriate control of the meeting, the president or other presiding individual shall determine the person having the floor at any given time and, if discussion is in progress or to commence, who may participate in the discussion.

Section 3.
All speakers shall confine their remarks to the pending matter as recognized by the president or other presiding individual.

Section 4.

Public speakers shall not directly question members of the Board, the State Superintendent, or staff without express permission of the president or other presiding individual, nor shall Board members, the State Superintendent, or staff address questions directly to speakers without permission of the president or other presiding individual.

Section 5.

The Chief Counsel to the Board or the General Counsel of the California Department of Education, or a member of the Department's legal staff in the absence of the Board’s Chief Counsel, will serve as parliamentarian. In the absence of legal staff, the president or other presiding individual will name a temporary replacement if necessary.

ARTICLE XI

Board Appointments

ADVISORY BODIES

Section 1.

Upon recommendation of the Screening Committee as may be necessary, the Board appoints members to the following advisory bodies for the terms indicated:

a. Advisory Commission on Special Education. The Board appoints five of 17 members to serve four-year terms.  
   EC 33590

b. Instructional Quality Commission. The Board appoints 13 of 18 members to serve four-year terms.  
   EC 33530

c. Child Nutrition Advisory Council. The Board appoints 13 members, 12 to three-year terms and one student representative to a one-year term. By its own action, the Council may provide for the participation in its meetings of non-voting representatives of interest groups not otherwise represented among its members, such as school business officials and experts in the area of physical education and activity.  
   EC 49533

d. Advisory Commission on Charter Schools. The Board appoints eight members to two-year terms.  
   EC 47634.2(b)(1)  
   State Board of Education Policy 01-04

OTHER APPOINTMENTS

Section 2.

On the Board’s behalf, the president shall make all other appointments that are required of the Board or require Board representation, including, but not limited to: WestEd (Far West Laboratory for Educational Research and Development), Trustees of the California State Summer School for the Arts and the California Subject Matter Projects.
SCREENING AND APPOINTMENT

Section 3.

Opportunities for appointment shall be announced and advertised as appropriate, and application materials shall be made available to those requesting them. The Screening Committee shall paper-screen all applicants, interview candidates as the Committee determines necessary, and recommend appropriate action to the Board.

ARTICLE XII

Presidential Appointments

LIAISONS

Section 1.

The president shall appoint one Board member, or more where needed, to serve as liaison(s) to:

   a. The Advisory Commission on Special Education.
   b. The Instructional Quality Commission.
   c. The Advisory Commission on Charter Schools.
   d. The National Association of State Boards of Education, if the Board participates in that organization.
   e. The Commission on Teacher Credentialing.

OTHER

Section 2.

The president shall make all other appointments that may be required of the Board or that require Board representation.

ARTICLE XIII

Amendment to the Bylaws

These Bylaws may be amended at any regular meeting of the Board, provided that the amendment has been submitted in writing to the Board and members of the public with the meeting notice.

Abbreviations

Abbreviations used in these Bylaws, citing Board authority, are:

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>CC</td>
<td>Constitution of the State of California</td>
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<tr>
<td>CCR</td>
<td>California Code of Regulations</td>
</tr>
<tr>
<td>Status</td>
<td>Date</td>
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<td>---------</td>
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</tr>
<tr>
<td>Adopted</td>
<td>April 12, 1985</td>
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<tr>
<td>Amended</td>
<td>February 11, 1987</td>
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<td>May 12, 1995</td>
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<td>January 8, 1998</td>
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<td>Amended</td>
<td>April 11, 2001</td>
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<td>Amended</td>
<td>July 9, 2003</td>
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<tr>
<td>Amended</td>
<td>January 16, 2013</td>
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SBE Agenda for November 2017

State Board Members
- Michael W. Kirst, President
- Ilene W. Straus, Vice President
- Sue Burr
- Bruce Holaday
- Feliza I. Ortiz-Licon
- Patricia A. Rucker
- Niki Sandoval
- Ting L. Sun
- Karen Valdes
- Trish Williams
- Jaden Gray, Student Member

Secretary & Executive Officer
- Hon. Tom Torlakson

Executive Director
- Karen Stapf Walters

<table>
<thead>
<tr>
<th>Schedule of Meeting</th>
<th>Location</th>
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<tr>
<td><strong>Wednesday, November 8, 2017</strong></td>
<td><strong>California Department of Education</strong></td>
</tr>
<tr>
<td>8:30 a.m. Pacific Time ±</td>
<td>1430 N Street, Room 1101</td>
</tr>
<tr>
<td><strong>STATE BOARD OF EDUCATION</strong></td>
<td>Sacramento, California 95814</td>
</tr>
<tr>
<td><strong>Public Session. Public Session, adjourn to Closed Session – IF NECESSARY.</strong></td>
<td>916-319-0827</td>
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Please see the detailed agenda for more information about the items to be considered and acted upon. The public is welcome.

<table>
<thead>
<tr>
<th>Schedule of Meeting</th>
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<tr>
<td><strong>Thursday, November 9, 2017</strong></td>
<td><strong>California Department of Education</strong></td>
</tr>
<tr>
<td>8:30 a.m. Pacific Time ±</td>
<td>1430 N Street, Room 1101</td>
</tr>
<tr>
<td><strong>STATE BOARD OF EDUCATION</strong></td>
<td>Sacramento, California 95814</td>
</tr>
<tr>
<td><strong>The Closed Session will take place at approximately 8:30a.m. (The Public may not attend.)</strong></td>
<td>916-319-0827</td>
</tr>
</tbody>
</table>

The Closed Session (1) may commence earlier than 8:30 a.m.; (2) may begin at 8:30 a.m., be recessed, and then be reconvened later in the day; or (3) may commence later than 8:30 a.m.
Conference with Legal Counsel – Existing/Pending Litigation: Under Government Code sections 11126(e)(1) and (e)(2)(A), the State Board of Education hereby provides public notice that some or all of the existing or pending litigation will be considered and acted upon in closed session:

- California Parents for the Equalization of Educational Materials, et. al v. Tom Torlakson in his official capacity and members of the State Board of Education, in their official capacity, et. al, United States District Court (No. Dist. CA), Case No. 4:17-cv-00635
- California School Boards Association, et al v. California State Board of Education and Aspire Public Schools, Inc., Alameda County Superior Court, Case No. 07353566, CA Ct. of Appeal, 1st Dist., Case No. A122485, CA Supreme Court, Case No. S186129
- Cruz et al. v. State of California, State Board of Education, State Department of Education, Tom Torlakson et al., Alameda County Superior Court, Case No. RG14727139
- Devon Torrey-Love v. State of California, Department of Education, State Board of Education, Tom Torlakson, Department of Public Health, Dr. Karen Smith, Director of the Department of Public Health, Placer County Superior Court, Case No. CV-0039311
- D.J. et al. v. State of California, California Department of Education, Tom Torlakson, the State Board of Education, Los Angeles Superior Court, Case No. BS142775, CA Ct. of Appeal, 2nd Dist., Case No. B260075 and related complaint from the U.S. Department of Justice
- Options for Youth, Burbank, Inc., San Gabriel, Inc. Upland, Inc. and Victor Valley, Notice of Appeal Before the Education Audit Appeals Panel, EAAP Case Nos. 06-18, 06-19-07-07, 07-08 OAH Nos. L2006100966, L2006110025, L20070706022, L20070706728, Los Angeles County Superior Court, Case No. BC 347454
- Reed v. State of California, Los Angeles Unified School District, State Superintendent of Public Instruction, Jack O’Connell, California Department of Education, and State Board of Education, et al., Los Angeles County Superior Court, Case No. BC432420, CA Ct. of Appeal, 2nd Dist., Case No. B230817, CA Supreme Ct., Case No. 5191256
- Vergara et al. v. State of California, Governor Edmund G. Brown, Tom Torlakson, the California Department of Education, the State Board of Education, Los Angeles County Superior Court, Case No. BC484642, CA Ct. of Appeal 2nd Dist., Case No. B253282, B253310

ALL TIMES ARE APPROXIMATE AND ARE PROVIDED FOR CONVENIENCE ONLY

ALL ITEMS MAY BE HEARD IN A DIFFERENT ORDER THAN HOW THEY ARE LISTED ON THE AGENDA ON ANY DAY OF THE NOTICED MEETING

THE ORDER OF BUSINESS MAY BE CHANGED WITHOUT NOTICE

Time is set aside for individuals 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 or any other individual 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 at 1430 N Street, Room 5111, Sacramento, CA 95814; by telephone at 916-319-0827; or by facsimile at 916-319-0175.

CALIFORNIA STATE BOARD OF EDUCATION
FULL BOARD AGENDA
Public Session, Day 1

Wednesday, November 8, 2017

Wednesday, November 8, 2017 – 8:30 a.m. Pacific Time ±
California Department of Education
1430 N Street, Room 1101
Sacramento, California 95814

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

AGENDA ITEMS DAY 1

PLEASE NOTE: Individual speakers will be limited to one minute each for public comment for all items Wednesday and Thursday. For items 3 and 4 only, a group of five speakers may sign up together and designate one speaker who will be allocated a total of three minutes for the group.

Item 01
Subject: 2018-2019 State Board of Education Student Member: Recommendation of Three Finalists for Submission to the Governor for Consideration and Appointment.

Type of Action: Action, Information

Item 02
Subject: Reports from the 2017 Student Advisory Board on Education.

Type of Action: Information

Revised Item 03 (Posted 01-Nov-2017)
Note: The following changes have been made to the revised Item 03 SBE document: Dates on Page 6 of Attachment 3 were changed to 2018. All the tables containing information on level changes and status were updated removing the floating change and status description and adding the content in the table.

Item 03
Subject: Developing an Integrated Local, State, and Federal Accountability and Continuous Improvement System: Approval of the Recommended Revisions to the Academic Indicator and the Recommendation for Chronic
Absenteeism for the Fall 2017 Dashboard Release; Updates and Recommended Action Regarding Local Indicators; and Update on the California School Dashboard.

**Type of Action:** Action, Information

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**Item 04**

**Subject:** Update on the Development of California’s System of Support for Local Educational Agencies and Schools.

**Type of Action:** Action, Information

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**Item 05**

**Subject:** Update on Issues Related to California’s Implementation of the Elementary and Secondary Education Act and Other Federal Programs.

**Type of Action:** Action, Information

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**Item 06**

**Subject:** Presentation by WestEd: California Standards Implementation -- What Educators Are Saying

**Type of Action:** Information

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**Item 07**

**Subject:** California Assessment of Student Performance and Progress: Approve California Science Test Blueprint, General Achievement Level Descriptors, and Score Reporting Structure; and Approve California Spanish Assessment Blueprint, General Achievement Level Descriptors, and Score Reporting Structure.

**Type of Action:** Action, Information

- Item 07 Attachment 1
- Item 07 Attachment 3
- Item 07 Attachment 4

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**Item 08**

**Subject:** English Language Proficiency Assessments for California: Approve the Operational Summative Assessment Threshold Scores and Composite Weights for the English Language Proficiency Assessments for California and Approve the Local Educational Agency Apportionment Rates.

**Type of Action:** Action, Information

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**WAIVERS / ACTION AND CONSENT ITEMS**

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

Charter School Program (Geographic Limitations - Non-classroom Based)

**Item W-01**

**Subject:** Requests by four local educational agencies to waive portions of *Education Code* sections 47605 and 47605.1 for four charter schools which concern Nonclassroom-Based Charter School Resource Center Location.

**Waiver Numbers:**

- Adelanto Elementary School District 16-8-2017
- Big Sur Unified School District 2-8-2017
- Vallecitos Elementary School District 1-9-2017
- Washington Unified School District 12-8-2017

(Recommended for APPROVAL WITH CONDITIONS)

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**Item W-02**

**Subject:** Request by *Santa Clara Unified School District* to waive California *Education Code* Section 37202(a), the equity length of time requirement for transitional kindergarten and kindergarten programs at the districts’ elementary schools.

**Waiver Number:** 8-8-2017

(Recommended for APPROVAL WITH CONDITIONS)

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**Item W-03**

**Subject:** Request by two school districts for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).

**Waiver Numbers:**

- Mariposa County Unified School District Fed-16-2017

(Recommended for APPROVAL)

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**Instructional Time Requirement Audit Penalty (Below 1982-83 Base Minimum Minutes)**
Item W-04

Subject: Request by Moorpark Unified School District under the authority of the California Education Code Section 46206(a), to waive Education Code Section 46200, the audit penalty for offering fewer instructional days in the 2016–17 school year for students in grades six through eight (shortfall of one day) at district schools.

Waiver Number: 10-8-2017

(Recommended for APPROVAL WITH CONDITIONS)

Out-of-State Use of Funds and Transportation Allowances

Item W-05

Subject: Request by two school districts to waive a portion of California Education Code Section 35330(b)(3), to authorize expenditures of school district funds for students to travel out of state.

Waiver Numbers:

- Alhambra Unified School District 15-8-2017
- Coachella Valley Unified School District 9-8-2017

(Recommended for APPROVAL)

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

Item W-06

Subject: Request by two school districts to waive all or portions of California Education Code sections specific to statutory provisions for the sale or lease of surplus property.

Waiver Numbers:

- Jurupa Unified School District 13-7-2017
- San Bruno Park Elementary School District 1-7-2017

(Recommended for APPROVAL WITH CONDITIONS)

SCHOOL CONSTRUCTION BONDS (Bond Indebtedness Limit - Non-Unified)

Item W-07

Subject: Request by Rosemead Elementary School District to waive California Education Code sections 15102 and 15268 to allow the district to exceed its bonded indebtedness limit. Total bonded indebtedness may not exceed 1.25 percent of the taxable assessed valuation of property for high school and elementary school districts. Depending on the type of bond, a tax rate levy limit to $30 per $100,000 of assessed value for high school and elementary school districts may also apply.

Waiver Number: 5-7-2017

(Recommended for APPROVAL WITH CONDITIONS)
Item W-08

**Subject:** Request by Oak Run Elementary School District to waive portions of California *Education Code* Section 5091, which will allow the board of trustees to make a provisional appointment to a vacant board position past the 60-day statutory deadline.

**Waiver Number:** 4-8-2017

(Recommended for APPROVAL)

Item W-09

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

**Waiver Numbers:**
- Antelope Valley Union High School District 12-7-2017
- Ontario-Montclair Unified School District 11-8-2017
- Tustin Unified School District 9-7-2017

(Recommended for APPROVAL)

Item W-10

**Subject:** Request by two local educational agencies under the authority of California *Education Code* Section 52863 for waivers of *Education Code* Section 52852, relating to schoolsite councils regarding changes in shared, composition, or shared and composition members.

**Waiver Numbers:**
- Mt. Shasta Union Elementary School District 3-8-2017
- Stanislaus County Office of Education 13-8-2017

(Recommended for APPROVAL WITH CONDITIONS)

Item W-11

**Subject:** Requests by two county offices of education to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for Deaf and Hard of Hearing students meet minimum qualifications as of August 4, 2017, to allow two interpreters to continue to provide services to students until June 30,
2018, under a remediation plan to complete those minimum requirements.

**Waiver Numbers:**

- San Joaquin County Office of Education 4-9-2017
- San Luis Obispo County Office of Education 2-9-2017

(Recommended for APPROVAL WITH CONDITIONS)

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

**Item W-12**

**Subject:** Request by Fallbrook Union Elementary School District to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days for an extended school year (summer school) for students with disabilities.

**Waiver Number:** 11-7-2017

(Recommended for APPROVAL WITH CONDITIONS)

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**State Testing Apportionment Report (CAASPP)**

**Item W-13**

**Subject:** Request by two local educational agencies to waive the State Testing Apportionment Information Report deadline as stipulated in the *California Code of Regulations*, Title 5, Section 11517.5(b)(1)(A), regarding the California English Language Development Test; or Title 5, Section 862(b)(2)(A), regarding the California Assessment of Student Performance and Progress System.

**Waiver Numbers:**

- Norris Elementary School District 1-8-2017
- Templeton Unified School District 7-7-2017

(Recommended for APPROVAL)

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**Charter School Program (Geographic Limitations - Non-classroom Based)**

**Item W-14**

**Subject:** Request by Wiseburn Unified School District to waive portions of *Education Code* sections 47605 and 47605.1 for RISE High which concern Nonclassroom-Based Charter School Resource Center Location.

**Waiver Number:** 6-8-2017

(Recommended for APPROVAL WITH CONDITIONS)

END OF WAIVERS
Item 09


Type of Action: Action, Information

Item 10 (2MB)

Subject: California Assessment of Student Performance and Progress: Approve Commencement of a Second 15-Day Public Comment Period for Proposed Amendments to *California Code of Regulations*, Title 5, Sections 850 through 859.

Type of Action: Action, Information

- Item 10 Attachment 5 (2MB)
- Accessible Alternative Version of Item 10 Attachment 5

Item 11

Subject: Approval of the Career Technical Education Incentive Grant: Round 3 Grantee List.

Type of Action: Action, Information

Item 12

Subject: 2018 Science Instructional Materials Adoption: Appointment of Reviewers and Approval of Trainers.

Type of Action: Action, Information

Item 13

Subject: Instructional Materials Adoptions—Adopt Proposed Amendments to *California Code of Regulations*, Title 5, Section 9517.3.

Type of Action: Action, Information

- Item 13 Attachment 3
- Accessible Alternative Version of Item 13 Attachment 3

Item 14

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

Type of Action: Action, Information

Item 15

Subject: Approval of 2017–18 Consolidated Applications.
**Type of Action:** Action, Information

**Revised Item 16 (Posted 02-Nov-2017)**  
Note: This revision includes: Page 3, added Attachment 4i; Attachment 3, page 2 - added reference to Attachment 4i; Attachment 4 -added various comments. Attachment 4a-4i was typed and consolidated in order to make it accessible. This consolidation altered the number of pages.

**Revised Item 16 Attachment 4 (Posted 02-Nov-2017)**  
Note: Item 16 Attachment 4a to 4i with searchable text.

**Item 16**

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

**Type of Action:** Action, Information

- Item 16 Attachment 4
- Item 16 Attachment 5
- Accessible Alternative Version of item 16 Attachment 5

**Item 17**

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

Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board appointments and direction to staff; declaratory and commendatory resolutions; Bylaw review and revision; Board policy; approval of minutes; Board liaison reports; training of Board members; and other matters of interest.

**Type of Action:** Action, Information

**ADJOURNMENT OF DAY’S SESSION**

**CALIFORNIA STATE BOARD OF EDUCATION**

**FULL BOARD AGENDA**

Public Session, Day 2

Thursday, November 9, 2017

**Thursday, November 9, 2017 – 8:30 a.m. Pacific Time ±**

California Department of Education  
1430 N Street, Room 1101  
Sacramento, California 95814

- Call to Order
- Salute to the Flag
AGENDA ITEMS DAY 2

PLEASE NOTE: Individual speakers will be limited to one minute each for public comment for all items Thursday.

PUBLIC HEARING

The following Public Hearing will commence no earlier than 8:30 a.m. on Thursday, November 9, 2017. The Public Hearing listed below will be held as close to 8:30 a.m. as the business of the State Board permits.

Item 18


Type of Action: Action, Information, Public Hearing

END OF PUBLIC HEARING

Item 19

Subject: GENERAL PUBLIC COMMENT.

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

Type of Action: Information

ADJOURNMENT OF MEETING

This agenda is posted on the State Board of Education’s Web site at http://www.cde.ca.gov/be/ag/. For more information concerning this agenda, please contact the State Board of Education at 1430 N Street, Room 5111, Sacramento, CA, 95814; telephone 916-319-0827; and facsimile 916-319-0175. Members of the public wishing to send written comments about an agenda item to the board are encouraged to send an electronic copy to SBE@cde.ca.gov, with the item number clearly marked in the subject line. In order to ensure that comments are received by board members in advance of the meeting, please submit these and any related materials to our office by 12:00 Noon on November 3, 2017, the Friday prior to the meeting. If you do not meet the deadline, please provide 25 copies to distribute at the meeting.
CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2017 AGENDA

SUBJECT

2018-2019 State Board of Education Student Member: Recommendation of Three Finalists for Submission to the Governor for Consideration and Appointment.

SUMMARY OF THE ISSUE(S)

On Tuesday, November 7, 2017, the State Board of Education (SBE) Screening Committee will interview six candidates selected by student representatives attending the Student Advisory Board on Education (SABE) Conference from an initial set of 12 semi-finalists. The list of three finalists recommended by the Screening Committee will be provided as an Item Addendum.

RECOMMENDATION

The State Board of Education’s (SBE) Screening Committee recommends that the SBE approve the three finalists for the position of 2018-2019 SBE Student Member, as identified in the Item Addendum. The approved finalists will be forwarded to the Governor for his consideration and appointment as the 2018-19 SBE Student Member.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Pursuant to California Education Code Section 33000.5(e)(5), the SBE annually selects three finalists from six candidates to be considered by the Governor as the Student Member for the forthcoming year.

FISCAL ANALYSIS (AS APPROPRIATE)

None.

ATTACHMENT(S)

An Item Addendum will contain information about the 12 semi-finalists, the six candidates interviewed by the SBE Screening Committee, and the three finalists recommended by the SBE Screening Committee.
CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2017 AGENDA

SUBJECT
Reports from the 2017 Student Advisory Board on Education.

□ Action
☒ Information
□ Public Hearing

SUMMARY OF THE ISSUE(S)

The 2017 Student Advisory Board on Education (SABE) Conference will be held in Sacramento from November 5 through 8, 2017, and will culminate in oral presentations to the State Board of Education (SBE) on Wednesday, November 8, 2017. Each presentation will focus on an issue chosen by student delegates of the 2017 SABE Conference, and will reflect their research and discussion.

RECOMMENDATION

Listen to student proposals from the 2017 SABE Conference.

BRIEF HISTORY OF KEY ISSUES

The SBE receives annual SABE reports. The California Department of Education (CDE) and SBE staff, working with the SBE’s Student Member, may review and develop responses to the SABE proposals, and may be considered at a future SBE meeting if they are within the jurisdiction of the SBE.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Student proposals to the SBE in November 2016 covered a range of topics, including Integration of Technology in Schools; Inclusion of Mental Health in the Health Framework for California Public Schools; Composition of the English Learner Advisory Committee and the District English Learner Advisory Committee; Student Input in Accountability System; and Student Representation Related to Discipline Process.

FISCAL ANALYSIS (AS APPROPRIATE)

None.
ATTACHMENT

Student representatives will provide a handout of their report to SBE members at the time of their oral presentation.
CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2017 AGENDA

SUBJECT

Developing an Integrated Local, State, and Federal Accountability and Continuous Improvement System: Approval of the Recommended Revisions to the Academic Indicator and the Recommendation for Chronic Absenteeism for the Fall 2017 Dashboard Release; Updates and Recommended Action Regarding Local Indicators; and Update on the California School Dashboard.

SUMMARY OF THE ISSUE(S)

With the approval of a new accountability system in May 2016, the State Board of Education (SBE) established an annual review process of the Local Control Funding Formula (LCFF) evaluation rubrics, which is reported through the online California School Dashboard (Dashboard). This process includes the review of state and local indicators and performance standards to consider necessary changes or improvements based on newly available data, recent research, and/or stakeholder feedback. Under this process, the California Department of Education (CDE) includes state and local indicators that need revisions or updates in the work plan presented at each March SBE meeting. This process allows for a gradual and deliberate approach to improving the state and local indicators and incorporating changes prior to the annual release of the Dashboard each fall.

RECOMMENDATION

The CDE recommends that the SBE take the following action:

1. For the Academic Indicator: approve new Change cut scores, new High and Medium Status cut scores for mathematics, and a new color designation for the five-by-five grid (as detailed in Attachment 1).

2. For the Chronic Absenteeism Indicator: include information in the Fall 2017 Dashboard that redirects users to the Chronic Absenteeism reports on DataQuest. Additionally, direct CDE staff to develop a recommendation for the March 2018 SBE meeting on proposed Status cut scores that will subsequently be used to update the Fall 2017 Dashboard Chronic Absenteeism Indicator. Finally, direct CDE staff to develop a recommendation for the September or November 2018 SBE meeting on proposed Change cut scores (as detailed in Attachment 2).
3. For the local indicator for LCFF Priority 7-Access to Broad Course of Study: adopt standards for the local indicator consistent with the standards adopted by the SBE for the current local indicators (as detailed in Attachment 4).

BRIEF HISTORY OF KEY ISSUES

Throughout the development of the new Accountability and Continuous Improvement System, the SBE has emphasized its commitment to review and revise the indicators and performance standards, as appropriate, as new data become available and as LEAs and stakeholders provide feedback on using the Dashboard over time.

Academic Indicator

At prior SBE meetings, the SBE has demonstrated a commitment to this principle of continuous improvement leading up to the adoption of the Academic Indicator. Specifically, in September 2016, the SBE decided that using one year of Smarter Balanced Assessment data provided limited information to base accountability decisions for LEAs and schools upon, and directed staff to incorporate the second year of Smarter Balanced Assessment data to determine the “Change” results. At the SBE November 2016 meeting, the SBE requested the use of scale scores to calculate the Academic Indicator results to provide a more precise measure of LEA and school Status and Change. Additionally, at the January 2017 meeting, the SBE approved a methodology based on the scale scores (Distance from Level 3) and set the Status and Change cut scores for the Academic Indicator. In September 2017, the CDE informed the SBE that it would present the analysis of the 2017 Smarter Balanced Summative Assessments results to the Technical Design Group in October 2017, and bring any recommended changes for SBE consideration to the November 2017 SBE meeting.

Chronic Absenteeism Indicator

In September 2016, the SBE adopted the Chronic Absenteeism Indicator. Chronic Absenteeism is a metric required under LCFF (as part of Priority 5: Pupil Engagement). In addition, under the Every Student Succeeds Act, states are required to collect data to identify students who are chronically absent and report Chronic Absenteeism rates for schools in the State Report Card (California Education Code (EC) Section 1111[h][1][C][viii]).

The CDE collected information on Chronic Absenteeism for the first time at the end of the 2016–17 school year through the California Longitudinal Pupil Achievement Data System. In September 2017, the CDE indicated that, based on the availability and review of the data, this item would return for SBE action in November 2017.

School Conditions and Climate Workgroup

The CDE convened the CCWG to advise the State Superintendent of Public Instruction on proposed revisions to LCFF Priority 6. The CCWG explored multiple options for the further development of school conditions and climate measures in California’s
Accountability and Continuous Improvement System. The group includes a broad range of stakeholders, including practitioners, researchers, and advocates. A description of the recommendations and work of the CCWG is included in the October 2017 SBE Information Memorandum. ([https://www.cde.ca.gov/be/pn/im/documents/memo-ocd-oct17item01.doc](https://www.cde.ca.gov/be/pn/im/documents/memo-ocd-oct17item01.doc) and [https://www.cde.ca.gov/be/pn/im/documents/memo-ocd-oct17item01a1.pdf](https://www.cde.ca.gov/be/pn/im/documents/memo-ocd-oct17item01a1.pdf))

**Local Performance Indicator for Access to a Broad Course of Study (Priority 7)**

At their July 2016 meeting, the SBE approved the College/Career Indicator (CCI) as a state indicator to address standards for LCFF Priority 7 (Access to Access to a Broad Course of Study) and Priority 8 (Outcomes in Access to a Broad Course of Study). As a measure of postsecondary preparedness, an LEA’s performance on the CCI is calculated using multiple appropriate measures including, but not limited to, career technical pathway completion, Early Assessment Program scores, Advanced Placement exam scores, dual enrollment, International Baccalaureate Diploma completion, and a-g course completion. The CCI Workgroup continues to work on the further improvement of the CCI.

These measures, however, do not provide sufficient information to determine an LEA’s progress toward addressing the extent to which students have access to, and are enrolled in, Access to a Broad Course of Study (Priority 7). In September 2017, the CDE indicated to the SBE that they would develop a local indicator for Priority 7 for consideration at the November 2017 SBE meeting and adopt standards for the local indicator consistent with the standards adopted by the SBE for the current local indicators.

**SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

**Academic Indicator**

In January 2017, the SBE adopted performance standards for the Academic Indicator, using the methodology known as “Distance from Level 3,” or DF3. DF3 is the average distance between students’ scale scores on the Smarter Balanced Summative Assessments for English language arts/literacy (ELA) and mathematics and the lowest possible score for the Standard Met Achievement Level (Level 3). ([http://www.cde.ca.gov/be/ag/ag/yr17/documents/jan17item02.doc](http://www.cde.ca.gov/be/ag/ag/yr17/documents/jan17item02.doc) and [http://www.cde.ca.gov/be/ag/ag/yr17/documents/jan17item02a1addendum.doc](http://www.cde.ca.gov/be/ag/ag/yr17/documents/jan17item02a1addendum.doc))

In September 2016, the SBE directed CDE staff to develop recommended cut scores and performance categories for the ELA and mathematics assessments in grades three through eight. ([http://www.cde.ca.gov/be/ag/ag/yr16/documents/sep16item01.doc](http://www.cde.ca.gov/be/ag/ag/yr16/documents/sep16item01.doc))

**Chronic Absenteeism Indicator**

In May 2016, the SBE adopted Chronic Absenteeism as a state indicator. ([http://www.cde.ca.gov/be/ag/ag/yr16/documents/may16item02revised.doc](http://www.cde.ca.gov/be/ag/ag/yr16/documents/may16item02revised.doc))
In November 2014, the SBE adopted the LCFF template, which included the formula for calculating the Chronic Absenteeism rate.  
(http://www.cde.ca.gov/be/ag/ag/yr14/documents/nov14item14.doc)

School Conditions and Climate Workgroup

In October 2017, the SBE received the following Information Memorandum:

- School Conditions and Climate Work Group: Recommendation Framework.  
(http://www.cde.ca.gov/be/pn/im/documents/memo-oct17item01.doc)

In June 2017, the SBE received the following Information Memorandum:

- Update on the School Conditions and Climate Work Group  
(http://www.cde.ca.gov/be/pn/im/documents/memo-exec-oct17item01.doc)

In March 2017, the SBE received an update on the School Conditions and Climate Workgroup.  
(http://www.cde.ca.gov/be/ag/ag/yr17/documents/mar17item02.doc)

In January 2017, the SBE received the following Information Memorandum:

- Update on the School Conditions and Climate Work Group  
(http://www.cde.ca.gov/be/pn/im/documents/memo-exec-jan17item01.doc)

In December 2016, the SBE received the following Information Memorandum:

- Update on the Components of LCFF Evaluation Rubrics Including School Climate Priority 6  
(http://www.cde.ca.gov/be/pn/im/documents/memo-sbe-dec16item02.doc)

In November 2016, the SBE approved self-assessment tools for LEAs to determine progress on the local performance indicator for Priority 6-School Climate.  
(http://www.cde.ca.gov/be/ag/ag/yr16/documents/nov16item03.doc)

In September 2016, the SBE approved the standard for the local performance indicator Priority 6: Local Climate Surveys.  
(http://www.cde.ca.gov/be/ag/ag/yr16/documents/sep16item01.doc)

In August 2016, the SBE received the following Information Memorandum:

- Update on the Establishment of the Workgroup  
(http://www.cde.ca.gov/be/pn/im/documents/memo-exec-aug16item01.doc)

In July 2016, the SBE approved the inclusion of a standard for the use of local climate surveys to support a broader assessment of performance on Priority 6.  
(http://www.cde.ca.gov/be/ag/ag/yr16/documents/jul16item02.doc)
In June 2016, the SBE received the following Information Memorandum:

- Process to Identify Options for School Climate Surveys
  (http://www.cde.ca.gov/be/pn/im/documents/memo-dsib-amard-jun16item02.doc)

Local Performance Indicator for Access to a Broad Course of Study (Priority 7)

In December 2016, the SBE received the following Information Memorandum:

- Overview on the Collection of Course Enrollment and Completion Data
  (https://www.cde.ca.gov/be/pn/im/documents/memo-dsib-amard-nov16item01.doc)

FISCAL ANALYSIS (AS APPROPRIATE)

The 2017–18 state budget funds the Proposition 98 Minimum Guarantee at $74.5 billion. This includes an increase of more than $1.4 million to support the continued implementation of LCFF and builds upon the investment of more than $15.7 billion provided over the last four years. This increase brings the formula to 97 percent of full implementation.

ATTACHMENT(S)

Attachment 1: Proposed Revisions for the Academic Indicator (29 Pages)

Attachment 2: Update on the Chronic Absenteeism Indicator (3 Pages)

Attachment 3: School Climate Local Indicator: Update on the School Conditions and Climate Work Group (CCWG) Recommendations (8 Pages)

Attachment 4: Local Performance Indicator for Priority 7-Access to a Broad Course of Study (4 Pages)

Attachment 5: Update on the California School Dashboard (1 Page)
Proposed Revisions for the Academic Indicator

Background

In January 2017, the State Board of Education (SBE) approved the Academic Indicator for inclusion in the California School Dashboard (Dashboard). The Academic Indicator is based on the Smarter Balanced Summative Assessments results for English language arts/literacy (ELA) and mathematics and applies to local educational agencies (LEAs) and schools with grades three through eight. (Grade eleven results are included in the College/Career Indicator and are not included in this indicator.) Calculations for Status and Change use a methodology known as Distance from Level 3, or DF3.

The scale score ranges for the Smarter Balanced Summative Assessments vary by both content area (ELA and mathematics) and grade level. DF3 represents the distance between a student’s score on the Smarter Balanced Summative Assessments and the lowest possible scale score for the Standard Met Achievement Level for each grade level and content area. For example, for the grade five mathematics test, the lowest Level 3 scale score is 2,528. Therefore, each grade five student’s math score is compared to this fixed number. A score of 2,505 is 23 points below Level 3, as illustrated below:

![Grade 5 Scale Score Range for Level 3](image)

Each grade level has different scale score ranges for each of the four achievement levels. In addition, the scale score ranges also differ by content area. As a result, each student’s distance from Level 3 is calculated separately by grade level and content area, and then all of the distances are combined to determine an average. The result is the DF3. The DF3 is calculated for each LEA, school, and student group. These results will show which areas are in need of improvement and the extent to which the average student score falls short of, meets, or exceeds the Level 3 threshold.

Key Issues

The central premise of California’s Accountability and Continuous Improvement System is the consideration of necessary changes or improvements based on newly available data, recent research, and/or stakeholder feedback.
In May 2016, the SBE approved the design for the Dashboard that included the establishment of a unique set of cut scores for each indicator, using distributions based on LEA-level data, which includes charter schools, and applying the LEA cut scores to all schools, where appropriate.

The methodology used to produce the cut scores considers the LEA level distributions for Status and Change, respectively. This methodology is effective with data that is relatively stable year to year, producing a smooth trend in the data. Trend data show a pattern of gradual change in a certain direction over time—up, down, or sideways. Trend data provides the information to establish cut points that will remain stable over multiple years. For the Academic Indicator, three years of status data (2015, 2016, and 2017) and only two years of Change data (2016 and 2017) are available. While the distributions of Status are similar enough to create a smooth trend in the three years of data, the distributions of Change vary considerably from year to year, making it difficult to predict future change results. Even if the 2018 Change data were to closely match one of the current Change distributions, a smooth trend is unlikely to be established until at least three years of similarly distributed data are available, likely 2019 or later.

When the performance standards were set for the Academic Indicator, only two years of Smarter Balanced Summative Assessment data were available (2015 and 2016), producing one year of Change data. The distributions used to set the performance standards were positively skewed, meaning that more than half of all LEAs had a positive change from 2015 to 2016. In fact, over 80 percent of LEAs experienced a positive change. The 2017 Change distribution is more symmetrical, with 45 percent of LEAs having a positive change from the prior year. Thus, the application of the 2016 cut scores to the 2017 Distance from Met results in far fewer LEAs identified with a Change level of Increased or Increased Significantly in 2017.
Tables 1 to 4 provide the performance levels for LEAs and schools based on the 2016 and 2017 Smarter Balanced Summative Assessment results using the current cut scores and methodology for ELA and mathematics. For details on the cut scores and methodology, see the Addendum to the January 2017 SBE Item, at http://www.cde.ca.gov/be/ag/ag/yr17/documents/jan17item02a1addendum.doc.

Table 1: Statewide LEA Performance—ELA

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<tr>
<td>Orange</td>
<td>177</td>
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<tr>
<td>Yellow</td>
<td>751</td>
<td>607</td>
</tr>
<tr>
<td>Green</td>
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</tr>
<tr>
<td>Blue</td>
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<tr>
<td>Total LEAs</td>
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Table 2: Statewide LEA Performance—Mathematics

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<thead>
<tr>
<th>Level</th>
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<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Red</td>
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<tr>
<td>Blue</td>
<td>191</td>
<td>114</td>
</tr>
<tr>
<td>Total LEAs</td>
<td>1,570</td>
<td>1,619</td>
</tr>
</tbody>
</table>

Table 3: Statewide School Performance—ELA

<table>
<thead>
<tr>
<th>Level</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Red</td>
<td>454</td>
<td>933</td>
</tr>
<tr>
<td>Orange</td>
<td>915</td>
<td>2,097</td>
</tr>
<tr>
<td>Yellow</td>
<td>3,320</td>
<td>2,577</td>
</tr>
<tr>
<td>Green</td>
<td>1,420</td>
<td>1,182</td>
</tr>
<tr>
<td>Blue</td>
<td>1,048</td>
<td>473</td>
</tr>
<tr>
<td>Total Schools</td>
<td>7,157</td>
<td>7,262</td>
</tr>
</tbody>
</table>

Table 4: Statewide School Performance—Mathematics

<table>
<thead>
<tr>
<th>Level</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Red</td>
<td>581</td>
<td>1,083</td>
</tr>
<tr>
<td>Orange</td>
<td>1,018</td>
<td>1,612</td>
</tr>
<tr>
<td>Yellow</td>
<td>3,166</td>
<td>2,649</td>
</tr>
<tr>
<td>Green</td>
<td>1,424</td>
<td>1,275</td>
</tr>
<tr>
<td>Blue</td>
<td>966</td>
<td>641</td>
</tr>
<tr>
<td>Total Schools</td>
<td>7,155</td>
<td>7,260</td>
</tr>
</tbody>
</table>

While the distributions for Status have remained constant from 2015 through 2017, the current Change cut scores have produced dramatic downward swings. For example, a school with a 2016 DF3 of +116.3 and 2017 +99.3 would move from a Blue to Yellow performance level. Some 200 highly successful schools (at the “High” or “Very High” Status level) dropped two performance levels in 2017 (from Blue to Yellow), even as the vast majority of their students continued to meet or exceed the state standards. Under the current set of cut scores, high performing schools must sustain continued improvement that may be untenable. In reverse, schools with a very low Status (more than 95 points below the DF3), that improve by just 15 points from the prior year could jump two performance levels (i.e., Red to Yellow). Applying the current cut scores and methodology to the 2017 DF3 would result in 1,117 schools (15 percent) moving up or down at least two performance levels in ELA.
This section shows the current color designations and cut scores for the five-by-five table, along with detailed information on the performance of LEAs and schools, using this methodology.

**Table 5: Current Color Designation and Current Cut Scores—ELA**

<table>
<thead>
<tr>
<th>Level</th>
<th>Change: Declined Significantly by more than 15 points</th>
<th>Change: Declined by 1 to 15 points</th>
<th>Change: Maintained Declined by less than 1 point or Improved by less than 7 points</th>
<th>Change: Increased by 7 to less than 20 points</th>
<th>Change: Increased Significantly by 20 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status: Very High</td>
<td>Yellow</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>45 or more points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: High</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
</tr>
<tr>
<td>10 above to less than 45 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: Medium</td>
<td>Orange</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>5 below to less than 10 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: Low</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 5 below to 70 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: Very Low</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 70 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**2016 and 2017 ELA Results Using Current Color Designation and Current Cut Scores**

Based on the current cut scores and methodology, the number of LEAs identified in the Red performance level for ELA would double from 81 (5.2 percent) to 169 (10.4 percent), as shown in Table 6.
Table 6

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>81</td>
<td>177</td>
<td>751</td>
<td>354</td>
<td>208</td>
</tr>
<tr>
<td>(n = 1,571)</td>
<td>(5.2%)</td>
<td>(11.3%)</td>
<td>(47.8%)</td>
<td>(22.5%)</td>
<td>(13.2%)</td>
</tr>
<tr>
<td>2017</td>
<td>169</td>
<td>487</td>
<td>607</td>
<td>248</td>
<td>109</td>
</tr>
<tr>
<td>(n = 1,620)</td>
<td>(10.4%)</td>
<td>(30.1%)</td>
<td>(37.5%)</td>
<td>(15.3%)</td>
<td>(6.7%)</td>
</tr>
</tbody>
</table>

Based on the current cut scores and methodology, the number of schools identified in the Red performance level would also double from 455 (6.4 percent) to 933 (12.8 percent), as shown in Table 7.

Table 7

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>455</td>
<td>915</td>
<td>3,320</td>
<td>1,420</td>
<td>1,048</td>
</tr>
<tr>
<td>(n = 7,158)</td>
<td>(6.4%)</td>
<td>(12.8%)</td>
<td>(46.4%)</td>
<td>(19.8%)</td>
<td>(14.6%)</td>
</tr>
<tr>
<td>2017</td>
<td>933</td>
<td>2,097</td>
<td>2,577</td>
<td>1,182</td>
<td>473</td>
</tr>
<tr>
<td>(n = 7,262)</td>
<td>(12.8%)</td>
<td>(28.9%)</td>
<td>(35.5%)</td>
<td>(16.3%)</td>
<td>(6.5%)</td>
</tr>
</tbody>
</table>

1 Based on data posted in the Spring 2017 California School Dashboard.
2 Based on data posted in the Spring 2017 California School Dashboard.
## Table 8: Current Color Designation and Current Cut Scores—Mathematics

<table>
<thead>
<tr>
<th>Level</th>
<th>Change: Declined Significantly by more than 10 points</th>
<th>Change: Declined by 1 to 10 points</th>
<th>Change: Maintained Declined by less than 1 point or Improved by less than 5 points</th>
<th>Change: Increased by 5 to less than 15 points</th>
<th>Change: Increased Significantly by 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status: Very High 35 or more points above</td>
<td>Yellow</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>Status: High 5 below to less than 35 points above</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
</tr>
<tr>
<td>Status: Medium More than 5 points below to 25 points below</td>
<td>Orange</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>Status: Low More than 25 points below to 95 points below</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>Status: Very Low More than 95 points below</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Orange</td>
<td>Yellow</td>
</tr>
</tbody>
</table>

### 2016 and 2017 Mathematics Results Using Current Color Designation and Cut Scores

Based on the current cut scores and methodology, the number of LEAs identified in the Red performance level for mathematics would almost double, from 119 (7.6 percent) to 231 (14.3 percent), as shown in Table 9.

#### Table 9

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 1,570)3</td>
<td>119 (7.6%)</td>
<td>217 (13.8%)</td>
<td>723 (46.1%)</td>
<td>320 (20.4%)</td>
<td>191 (12.2%)</td>
</tr>
<tr>
<td>2017 (n = 1,619)</td>
<td>231 (14.3%)</td>
<td>410 (25.3%)</td>
<td>605 (37.4%)</td>
<td>259 (16.0%)</td>
<td>114 (7.0%)</td>
</tr>
</tbody>
</table>

3 Based on data in the Spring 2017 Dashboard.
Based on the current cut scores and methodology, the number of schools identified in the Red performance level for mathematics would nearly double, from 582 (8.1 percent) to 1,083 (14.9 percent), as shown in Table 10.

Table 10

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 7,156)</td>
<td>582 (8.1%)</td>
<td>1,018 (14.2%)</td>
<td>3,166 (44.2%)</td>
<td>1,424 (19.9%)</td>
<td>966 (13.5%)</td>
</tr>
<tr>
<td>2017 (n = 7,260)</td>
<td>1,083 (14.9%)</td>
<td>1,612 (22.2%)</td>
<td>2,649 (36.5%)</td>
<td>1,275 (17.6%)</td>
<td>641 (8.8%)</td>
</tr>
</tbody>
</table>

Considerations for Continued Use of Current Methodology

As previously indicated, when the performance standards were set for the Academic Indicator, only two years of Smarter Balanced Summative Assessment data were available (2015 and 2016), producing one year of Change data. The California Department of Education (CDE) is concerned that the current methodology—based on only one year of Change data for the Academic Indicator—does not meet the intended purpose of the accountability system, which is to establish goals that are ambitious but also attainable by all schools throughout the state. The system should be stable and minimize volatility from year to year, and control for large swings (two or more) in performance levels (colors). The results produced in Tables 1 through 10 demonstrate that, while the distributions for Status have remained constant from 2015 through 2017, the current Change cut scores have produced dramatic downward swings. At the same time, the system should be fair and understandable so LEAs and schools are comfortable working with the system over time and able to frame their own communications, including the establishment of goals for their Local Control and Accountability Plan (LCAP).

Additionally, since the Academic Indicator uses scale scores rather than percentages, it is by design more susceptible to large swings in performance levels. The error of variance in scale scores is +20 to -20 for every student. Although, this only represents 1/3 of a standard deviation, which is substantially better than most standardized assessments, it contributes to the variability from year to year in the performance levels.

The CDE consulted with the Technical Design Group (TDG) regarding the concerns with the current methodology. The TDG agreed that this should be further reviewed and requested that staff conduct multiple simulations to consider revisions to the methodology and cut scores for the Academic Indicator.

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4 Based on data posted in the Spring 2017 Dashboard.
Possible Options for Revising the Academic Indicator

Although a smooth trend of Change data is not yet available, the large swing in the Change results—based on the current methodology and/or cut scores—are producing volatile results. The TDG explored the following alternative methodologies at their October 25, 2017 meeting:

1. Establish new Change cut scores and apply the results to a new color designation, as proposed by the TDG (i.e., change the arrangement of the colors within the five-by-five grid).

2. Maintain the current cut scores and apply the results to a new color designation.

3. Revise the cut scores and apply the change scores to:
   a. The current color designation
   b. An alternate new color designation, as proposed by the TDG

4. Use a two-year average to calculate Change (i.e., average of the average) and apply results to the:
   - Current color designation adopted by the SBE in September 2016

After reviewing multiple simulation results, and taking into consideration all of issues, the TDG recommended revisions to the Change level cut scores, a revision to the mathematics Status cut scores, and a new color designation. Below are the simulation results based on the TDG’s recommendation (Option 1). The following section provides simulation results for the remaining three options (labeled Options 2 through 4) as reviewed by the TDG.

Option 1: TDG Recommended Methodology—New Change Cut Scores and New Color Designation

Prior to setting any cut scores for the state indicators, the distributions (that includes statewide LEA data) are examined. The TDG followed this process and reviewed the Change distributions and the interaction of the change scores for: a) 2016, b) 2017, and c) the combined 2016 and 2017 change results before recommendations on the Change cut scores. After reviewing the data, the TDG determined it was important that the Change cut scores be more symmetrical to align with the cut scores established for the other indicators. The current cut scores for the Maintained range from less than -1 to less than +7 (ELA) and less than -1 to less than +5 (mathematics)—which is positively skewed (as discussed earlier). In comparison, the proposed revised Change cut score for Maintain ranges from less than negative three (-3) to less than positive three (+3). (Note: the CDE simulations were based on the Maintained Change cut score being set at less than negative two (-2) to less than positive two (+2). However, the TDG widened this range based on further review of the distributions and the standard deviation of the change scores.)
The TDG also recommended revising the High and Medium Status cut scores for mathematics. The recommended proposed cut scores for High Status is zero points to less than 35 points above DF3 and the proposed Medium cut scores are 25 points below DF3 to less than zero points. These revisions ensures that LEAs and schools cannot receive a high status unless they have a positive DF3. This change addresses issues raised by advocacy groups after the release of the Spring 2017 Dashboard.

In addition, the TDG recommended a revision to the color designation to bring more stability to the indicator. In the current five-by-five colored grid, most of the rows contain three colors, and one row contains four colors. The new recommended color designation limits each row to two colors. Since each row only has two colors, LEAs and schools that maintain their Status will always be one of two colors regardless of their change. As a result, a school with a very high status can only move from Blue to Green if it declines. A school with a very low status can only move from Red to Orange if it increases. Therefore, a school with a Red performance level must obtain a Low Status to move to a Yellow performance level (e.g., move from -85 DF3 to -70 DF3).

The revisions to the color designations results in more Green cells (8) than the current five-by-five colored grid (5). The TDG agreed with having more green cells to ensure that very high performing schools do not receive a Yellow performance level. Members also supported having maintaining the current number of Blue cells, indicating that it should be difficult for schools and LEAs to achieve the Blue performance level.
Table 11: TDG Recommended Methodology—New Change Cut Scores and New Color Designation—ELA

<table>
<thead>
<tr>
<th>Level</th>
<th>Change: Declined Significantly by more than 15 points</th>
<th>Change: Declined By 3 to 15 points</th>
<th>Change: Maintained Declined by less than 3 points or Increased by less than 3 points</th>
<th>Change: Increased by 3 to less than 15 points</th>
<th>Change: Increased Significantly By 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status: Very High</td>
<td>Green*</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>45 or more points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: High</td>
<td>Green*</td>
<td>Green*</td>
<td>Green</td>
<td>Blue</td>
<td></td>
</tr>
<tr>
<td>10 points above to less than 45 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: Medium</td>
<td>Yellow*</td>
<td>Yellow*</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>5 points below to less than 10 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: Low</td>
<td>Orange*</td>
<td>Orange</td>
<td>Orange*</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 5 points below to 70 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: Very Low</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Orange*</td>
</tr>
<tr>
<td>More than 70 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Change in Color Designation. Note: Italicized text indicates a change in cut scores.

Tables 12 and 13 show the impact on schools and LEAs if both the new cut scores and new color designation were applied for ELA. The methodology was applied to the 2016 DF3 and the 2017 DF3. This shows the difference in results between the two years, using the same methodology.
Table 12

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 1,571)</td>
<td>48 (3.1%)</td>
<td>266 (16.9%)</td>
<td>629 (40.0%)</td>
<td>379 (24.1%)</td>
<td>249 (15.9%)</td>
</tr>
<tr>
<td>2017 (n = 1,620)</td>
<td>64 (4.0%)</td>
<td>628 (38.7%)</td>
<td>404 (24.9%)</td>
<td>391 (24.1%)</td>
<td>133 (8.2%)</td>
</tr>
</tbody>
</table>

Table 13

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 7158)</td>
<td>306 (4.3%)</td>
<td>1,377 (19.2%)</td>
<td>2,794 (39.0%)</td>
<td>1,446 (20.2%)</td>
<td>1,235 (17.3%)</td>
</tr>
<tr>
<td>2017 (n = 7,262)</td>
<td>501 (6.9%)</td>
<td>2,660 (36.6%)</td>
<td>1,698 (23.4%)</td>
<td>1,806 (24.9%)</td>
<td>597 (8.2%)</td>
</tr>
</tbody>
</table>

Note: The data for 2016 represent the number of LEAs and schools assigned to each performance level with the application of TDG’s recommended methodology.

As Tables 12 and 13 show, revising both the cut scores and color designation results in an increase in the number of LEAs and schools assigned to the Red and Orange performance levels in 2017 compared to 2016 (64 vs. 48). The number of LEAs in Orange performance level also increases in 2017 when compared to 2016 (628 vs. 266). This divide applies to schools as well, with more schools assigned to the Red performance level in 2017 (501 vs. 306) and significantly more assigned to the Orange performance level (2,660 vs. 1,377).

Conversely, fewer LEAs are in the Blue performance level in 2017 (133 in 2017 vs. 249) and fewer schools are Blue (597 vs. 1,235). The changes from 2016 to 2017 reflect that the 2017 ELA Smarter Balanced Summative Assessments were flat, but the changes are not as dramatic as they would be if the current methodology is maintained.

When comparing the 2017 Option 1 results to the 2016 results based on the current methodology:

- Fewer LEAs will be Red in 2017 compared 2016 (64 vs. 81), but more LEA will be Orange (628 vs. 177).
- More schools will be Red in 2017 compared to 2016 (501 vs. 455), and more schools will be Orange (1,698 vs. 915).
- Fewer LEAs will be Blue in 2017 compared to 2016 (133 vs. 208), but slightly more LEAs will be Green (391 vs. 354).
- Fewer schools will be Blue in 2017 compared to 2016 (597 vs. 1,048), but more schools will be Green (1,806 vs. 1,420).
The new cut scores and color designation will result in an increase of LEAs and schools identified as Red or Orange in 2017 compared to 2016. In addition, fewer LEAs and schools will be Blues. These results reflect that the Smarter Balanced scores were relatively flat in 2017.

This section shows the impact of the TDG recommended methodology on mathematics.

**Table 14: TDG Recommended Methodology— New Change Cut Scores and New Color Designation—Mathematics**

<table>
<thead>
<tr>
<th>Level</th>
<th>Change: Declined Significantly by more than 15 points</th>
<th>Change: Declined By 3 to 15 points</th>
<th>Change: Maintained Declined by less than 3 points or Increased by less than 3 points</th>
<th>Change: Increased by 3 to less than 15 points</th>
<th>Change: Increased Significantly By 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status: Very High 35 or more points above</td>
<td>Green*</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>Status: High zero points to less than 35 points above</td>
<td>Green*</td>
<td>Green*</td>
<td>Green</td>
<td>Green*</td>
<td>Blue</td>
</tr>
<tr>
<td>Status: Medium 25 points below to zero</td>
<td>Yellow*</td>
<td>Yellow*</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>Status: Low More than 25 points below to 95 points below</td>
<td>Orange*</td>
<td>Orange</td>
<td>Orange*</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>Status: Very Low More than 95 points below</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange*</td>
<td>Orange</td>
</tr>
</tbody>
</table>

*Change in Color Designation. Note: Italicize text indicates a change in cut scores.

Tables 15 and 16 show the impact on schools and LEAs if both the new cut scores and new color designation were applied for mathematics. Again, the methodology was applied to the 2016 DF3 and the 2017 DF3. This shows the difference in results between the two years, using the same methodology.
Table 15

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 1,570)</td>
<td>47 (3.0%)</td>
<td>381 (24.3%)</td>
<td>579 (36.9%)</td>
<td>374 (23.8%)</td>
<td>189 (12.0%)</td>
</tr>
<tr>
<td>2017 (n = 1,619)</td>
<td>89 (5.5%)</td>
<td>600 (37.1%)</td>
<td>456 (28.2%)</td>
<td>349 (21.6%)</td>
<td>125 (7.7%)</td>
</tr>
</tbody>
</table>

Table 16

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 7,156)</td>
<td>276 (3.9%)</td>
<td>1,746 (24.4%)</td>
<td>2,551 (35.7%)</td>
<td>1,639 (22.9%)</td>
<td>944 (13.2%)</td>
</tr>
<tr>
<td>2017 (n = 7,260)</td>
<td>409 (5.6%)</td>
<td>2,419 (33.3%)</td>
<td>2,050 (28.2%)</td>
<td>1,702 (23.4%)</td>
<td>680 (9.4%)</td>
</tr>
</tbody>
</table>

Similar to the impact noted in the ELA section above, Tables 15 and 16 show that revising both the cut scores for mathematics and color designation results in an increase in the number of LEAs and schools assigned to the Red and Orange performance levels in 2017 compared to 2016. The number of LEAs assigned to Red is 89 vs. 47 and the number assigned to Orange is 600 vs. 381. This divide also occurs with schools in Red (409 vs. 276) and with schools in Orange (2,419 vs. 1,746).

Conversely, fewer LEAs would be Blue (125 vs. 189). Fewer schools would also be Blue (680 vs. 944).

When comparing the 2017 Option 1 results to the 2016 results based on the current methodology:

- Fewer LEAs will be Red in 2017 compared 2016 (89 vs. 119), but more LEA will be Orange (600 vs. 217).
- Fewer schools will be Red in 2017 compared to 2016 (409 vs. 582), but more schools will be Orange (2,419 vs. 1,018)
- Fewer LEAs will be Blue in 2017 compared to 2016 (125 vs. 191) and fewer LEAs will be Green (349 vs. 320).
- Fewer schools will be Blue in 2017 compared to 2016 (680 vs. 966). However, more schools will be Green (1,702 vs. 1,424).

Again, the new cut scores and color designation will results in an increase of LEAs and schools identified as Red or Orange in 2017 compared to 2016, and fewer LEAs and schools being Blue, which reflects that the Smarter Balanced scores were relatively flat in 2017.
This section provides the simulation results reviewed by the TDG for Options 2 through 4. Each simulation displays the methodology results for the 2016 and 2017 Smarter Balanced Summative Assessment results, providing a comparison between the two years of data and a more realistic view of the impact that the proposed methodologies would have for LEAs and schools in California.

**Option 2: New Color Designation and Current Cut Scores**

Although the TDG recommended a new color designation, which limits each row to two colors in order to provide more stability over time, they determined that the Very High Status and Declined Change level should remain Green, rather than changing it to Blue (as shown below). In addition, they demined that the Change cut scores should also be revised.

The revisions to the color designations below results in more Green cells (7) than the current five-by-five colored grid (5). The TDG agreed with having more Green cells to ensure that very high performing schools do not receive a Yellow performance level. In addition, the final decision was not to increase the number of Blue cells.

**Table 17: New Color Designation and Current Cut Scores—ELA**

<table>
<thead>
<tr>
<th>Level</th>
<th>Change: Declined Significantly by more than 15 points</th>
<th>Change: Declined by 1 to 15 points</th>
<th>Change: Maintained Declined by less than 1 point or Improved by less than 7 points</th>
<th>Change: Increased by 7 to less than 20 points</th>
<th>Change: Increased Significantly by 20 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status: Very High 45 or more points above</td>
<td>Green*</td>
<td>Blue*</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>Status: High 10 above to less than 45 points above</td>
<td>Green*</td>
<td>Green*</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
</tr>
<tr>
<td>Status: Medium 5 below to less than 10 points above</td>
<td>Yellow*</td>
<td>Yellow*</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>Status: Low More than 5 below to 70 points below</td>
<td>Orange*</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>Status: Very Low More than 70 points below</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Orange*</td>
</tr>
</tbody>
</table>

*Change in color designation.
Tables 18 and 19 show the impact for ELA that the new color designation would have on LEAs and schools.

Table 18

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>59 (3.8%)</td>
<td>174 (11.1%)</td>
<td>746 (47.5%)</td>
<td>375 (23.9%)</td>
<td>217 (13.8%)</td>
</tr>
<tr>
<td>2017</td>
<td>74 (4.6%)</td>
<td>481 (29.7%)</td>
<td>569 (35.1%)</td>
<td>323 (19.9%)</td>
<td>173 (10.7%)</td>
</tr>
</tbody>
</table>

Table 19

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>381 (5.3%)</td>
<td>915 (12.8%)</td>
<td>3,276 (45.8%)</td>
<td>1,474 (20.6%)</td>
<td>1,112 (15.5%)</td>
</tr>
<tr>
<td>2017</td>
<td>553 (7.6%)</td>
<td>2,069 (28.5%)</td>
<td>2,338 (32.2%)</td>
<td>1,460 (19.6%)</td>
<td>842 (12.1%)</td>
</tr>
</tbody>
</table>

As Tables 18 and 19 show, the application of the new color designation to 2016 and 2017 ELA data still results in more LEAs and schools assigned to the Red and Orange performance levels in 2017. This reflects the drop in scale scores on the 2017 ELA Smarter Balanced Summative Assessments. In addition, fewer LEAs and schools are identified in the Blue and Green performance levels in 2017.

The table below shows the impact of the new color designation for mathematics.
Table 20: New Color Designation and Current Cut Scores—Mathematics

<table>
<thead>
<tr>
<th>Level</th>
<th>Change: Declined Significantly by more than 10 points</th>
<th>Change: Declined by 1 to 10 points</th>
<th>Change: Maintained Declined by less than 1 point or Improved by less than 5 points</th>
<th>Change: Increased by 5 to less than 15 points</th>
<th>Change: Increased Significantly by 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status: Very High 35 or more points above</td>
<td>Green*</td>
<td>Blue*</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>Status: High 5 below to less than 35 points above</td>
<td>Green*</td>
<td>Green*</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
</tr>
<tr>
<td>Status: Medium More than 5 points below to 25 points below</td>
<td>Yellow*</td>
<td>Yellow*</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>Status: Low More than 25 points below to 95 points below</td>
<td>Orange*</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>Status: Very Low More than 95 points below</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Orange*</td>
</tr>
</tbody>
</table>

*New color designation

Tables 21 and 22 show the impact for mathematics on schools and LEAs if the new cut scores and current new color designation were applied.
As Tables 21 and 22 show, the application of the new color designation to 2016 and 2017 mathematics data results in more LEAs and schools assigned to the Red and Orange performance levels in 2017 compared to 2016. In addition, fewer LEAs and schools are identified in the Blue performance levels in 2017.

The following section shows the impact applying new cut scores to the current color designation.

**Option 3: New Cut Scores**

For all of the other state indicators, the Change cut scores are symmetrical. For example, the range for the “Maintained” Change level for the Graduation Rate Indicator is -1 to +1. However, since the 2016 results for the Academic Indicator were positively skewed, the cut scores were also positively skewed. As a result, the Change cut scores for the Academic Indicator are asymmetrical. For example, the range for the “Maintained” Change level is -1 to +7 for ELA, and -1 to -5 for mathematics. Since the 2017 Change results have a normal distribution, revising the cut scores based on 2017 data would align the cut scores to those set for the other state indicators. In addition, the Status cut scores for the High and Maintained Status level in mathematics were revised to ensure that LEAs and schools could not receive a High Status if they had a negative DF3.

The following tables reflects the simulated results using two different color designations.

a. Current color designation

b. Alternate color designation (proposed by TDG)
**Option 3(a): New Cut Scores and Current Color Designation**

**Table 23: New Cut Scores and Current Color Designation—ELA**

<table>
<thead>
<tr>
<th>Level</th>
<th>Change: Declined Significantly by more than 15 points</th>
<th>Change: Declined By 2 to 15 points</th>
<th>Change: Maintained Declined by less than 2 points or Increased by less than 2 points</th>
<th>Change: Increased by 2 to less than 15 points</th>
<th>Change: Increased Significantly by 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status: Very High</td>
<td>Yellow</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>45 or more points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: High</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
</tr>
<tr>
<td>10 points above to less than 45 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: Medium</td>
<td>Orange</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>5 points below to less than 10 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: Low</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 5 points below to 70 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: Very Low</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 70 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Tables 24 and 25 show the impact for ELA that the new cut scores would have on LEAs and schools.

**Table 24**

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 1,571)</td>
<td>65 (4.1%)</td>
<td>172 (11.0%)</td>
<td>725 (46.2%)</td>
<td>363 (23.1%)</td>
<td>246 (15.7%)</td>
</tr>
<tr>
<td>2017 (n = 1,620)</td>
<td>155 (9.6%)</td>
<td>453 (28.0%)</td>
<td>599 (37.0%)</td>
<td>285 (17.6%)</td>
<td>128 (7.9%)</td>
</tr>
</tbody>
</table>

**Table 25**

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 7,158)</td>
<td>354 (5.0%)</td>
<td>860 (12.0%)</td>
<td>3,344 (46.7%)</td>
<td>1,378 (19.3%)</td>
<td>1,222 (17.1%)</td>
</tr>
<tr>
<td>2017 (n = 7,262)</td>
<td>871 (12.0%)</td>
<td>1,975 (27.2%)</td>
<td>2,580 (35.5%)</td>
<td>1,279 (17.6%)</td>
<td>557 (7.7%)</td>
</tr>
</tbody>
</table>
As Tables 24 and 25 show, revising only the cut scores while using the current color designation results in a significant increase in the number of LEAs and schools assigned to the Red and Orange performance levels in 2017. When comparing the 2017 results to the simulated results for 2016, well over twice as many LEAs would be assigned to the Red performance level (155 compared to 65) and the Orange performance level (453 compared to 172), as shown in the tables above. This divide applies to schools as well, with more than double the number assigned to the Red performance level (871 in 2017 as compared to 354 in 2016) and the Orange performance level (1,975 in 2017 compared to 860 in 2016). Please note that the data for 2016 represent the number of LEAs and schools that would have been assigned to each performance level had the new cut scores been applied. Therefore, changing the cut scores alone, may not be sufficient.

The next section shows the impact of the new cut scores for mathematics.
Table 26: New Cut Scores and Current Color Designation—Mathematics

<table>
<thead>
<tr>
<th>Levels</th>
<th>Change: Declined Significantly by more than 15 points</th>
<th>Change: Declined By 2 to 15 points</th>
<th>Change: Maintained Declined by less than 2 points or Increased by less than 2 points</th>
<th>Change: Increased by 2 to less than 15 points</th>
<th>Change: Increased Significantly By 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status: Very High</td>
<td>Yellow</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>35 or more points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: High</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
</tr>
<tr>
<td>1 point to less than 35 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: Medium</td>
<td>Orange</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>0 to 25 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: Low</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 25 points below to 95 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: Very Low</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 95 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Tables 27 and 28 show the impact for mathematics that the new cut scores would have on LEAs and schools.

Table 27

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 1,570)</td>
<td>82 (5.2%)</td>
<td>226 (14.4%)</td>
<td>719 (45.8%)</td>
<td>355 (22.6%)</td>
<td>188 (12.0%)</td>
</tr>
<tr>
<td>2017 (n = 1,619)</td>
<td>168 (10.4%)</td>
<td>428 (26.4%)</td>
<td>604 (37.3%)</td>
<td>305 (18.8%)</td>
<td>114 (7.0%)</td>
</tr>
</tbody>
</table>

Table 28

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 7,156)</td>
<td>380 (5.3%)</td>
<td>1,084 (15.2%)</td>
<td>3,185 (44.5%)</td>
<td>1,573 (22.0%)</td>
<td>934 (13.1%)</td>
</tr>
<tr>
<td>2017 (n = 7,260)</td>
<td>705 (9.7%)</td>
<td>1,808 (24.9%)</td>
<td>2,650 (36.5%)</td>
<td>1,451 (20.0%)</td>
<td>646 (8.9%)</td>
</tr>
</tbody>
</table>
As Tables 27 and 28 show, the application of the new cut scores to 2016 and 2017 mathematics data are similar to those found for ELA. Revising only the cut scores results in a significant increase in the number of LEAs and schools assigned to the Red and Orange performance levels in 2017. In fact, when comparing the 2017 results to the 2016 results, twice as many LEAs and almost twice as many schools are assigned to the Red performance level.

Neither model in isolation—the application of new cut scores only (Option 3a) or a new color designation (Option 2)—resolves the issue of Change distribution swings.

**Option 3(b): New Cut Scores and Alternate New Color Designation**

In this option, both the new cut scores and an alternate new color designation are applied. (Note: the revised cut scores are the same for both ELA and mathematics, so only the Status scores differ.)

**Table 29: New Cut Scores and Alternate New Color Designation—ELA**

<table>
<thead>
<tr>
<th>Level</th>
<th>Change: Declined Significantly by more than 15 points</th>
<th>Change: Declined By 2 to 15 points</th>
<th>Change: Maintained Declined by less than 2 points or Increased by less than 2 points</th>
<th>Change: Increased by 2 to less than 15 points</th>
<th>Change: Increased Significantly by 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status: Very High 45 or more points above</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>Status: High 10 points above to less than 45 points above</td>
<td>Green</td>
<td>Green</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
</tr>
<tr>
<td>Status: Medium 5 points below to less than 10 points above</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>Status: Low More than 5 points below to 70 points below</td>
<td>Orange</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>Status: Very Low More than 70 points below</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Orange</td>
</tr>
</tbody>
</table>
Tables 30 and 31 show the impact on schools and LEAs if both the new cut scores and first new color designation were applied together for ELA.

**Table 30**

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 1,571)</td>
<td>43 (2.7%)</td>
<td>173 (11.0%)</td>
<td>720 (45.8%)</td>
<td>381 (24.3%)</td>
<td>254 (16.2%)</td>
</tr>
<tr>
<td>2017 (n = 1,620)</td>
<td>60 (3.7%)</td>
<td>460 (28.4%)</td>
<td>567 (35.0%)</td>
<td>349 (21.5%)</td>
<td>184 (11.4%)</td>
</tr>
</tbody>
</table>

**Table 31**

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 7158)</td>
<td>280 (3.9%)</td>
<td>898 (12.6%)</td>
<td>3,282 (45.9%)</td>
<td>1,420 (19.8%)</td>
<td>1,278 (17.9%)</td>
</tr>
<tr>
<td>2017 (n = 7,262)</td>
<td>491 (6.8%)</td>
<td>1,984 (27.3%)</td>
<td>2,363 (32.5%)</td>
<td>1,542 (21.2%)</td>
<td>882 (12.2%)</td>
</tr>
</tbody>
</table>

As Tables 30 and 31 show, the number of LEAs and schools identified as Red increases slightly between 2016 and 2017, but the number identified as Orange more than doubles. Revising both the color designation along with the cut scores reduces the number of schools moving down two or more performance levels (Blue to Yellow). However, a significant number of LEAs and schools moved down one performance level (Yellow to Orange), which is consistent with the lower 2017 DF3 results.

The next section shows the impact of the new cut scores and alternate color designation for mathematics.
Table 32: New Cut Scores and Alternate New Color Designation—Mathematics

<table>
<thead>
<tr>
<th>Level</th>
<th>Change: Declined Significantly by more than 15 points</th>
<th>Change: Declined by 2 to 15 points</th>
<th>Change: Maintained Declined by less than 2 points or Increased by less than 2 points</th>
<th>Change: Increased by 2 to less than 15 points</th>
<th>Change: Increased Significantly by 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status: Very High 35 or more points above</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>Status: High 1 point to less than 35 points above</td>
<td>Green</td>
<td>Green</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
</tr>
<tr>
<td>Status: Medium 0 to 25 points below</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>Status: Low More than 25 points below to 95 points below</td>
<td>Orange</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>Status: Very Low More than 95 points below</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Orange</td>
</tr>
</tbody>
</table>

Tables 33 and 34 show the impact on schools and LEAs if both the new cut scores and alternate new color designation were applied together for mathematics.

### Table 33

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 1,570)</td>
<td>46 (2.9%)</td>
<td>225 (14.3%)</td>
<td>728 (46.4%)</td>
<td>380 (24.2%)</td>
<td>191 (12.2%)</td>
</tr>
<tr>
<td>2017 (n = 1,619)</td>
<td>88 (5.4%)</td>
<td>405 (25.0%)</td>
<td>641 (39.6%)</td>
<td>335 (20.7%)</td>
<td>150 (9.3%)</td>
</tr>
</tbody>
</table>

### Table 34

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 7,156)</td>
<td>258 (3.6%)</td>
<td>1,078 (15.1%)</td>
<td>3,205 (44.8%)</td>
<td>1,623 (22.8%)</td>
<td>983 (13.7%)</td>
</tr>
<tr>
<td>2017 (n = 7,260)</td>
<td>398 (5.5%)</td>
<td>1,735 (23.9%)</td>
<td>2,696 (37.1%)</td>
<td>1,582 (21.8%)</td>
<td>849 (11.7%)</td>
</tr>
</tbody>
</table>
As Tables 33 and 34 show, the number of LEAs identified as Red for mathematics in 2017 is slightly higher than the number of LEAs identified as Red for ELA. Fewer schools were identified in the Red performance level for mathematics than ELA. However, revising both the color designation along with the cut scores reduces the number of schools moving down two or more performance levels (e.g., Blue to Yellow or Green to Red) as compared to other methodologies.

Next, we examine the impact of Option 4: Using a two-year average to calculate Change.

Option 4: Two-Year Average (Current Cut Scores and Current Color Designation)

Table 35: Two-Year Average Using the Current Color Designation and Current Cut Scores—ELA

<table>
<thead>
<tr>
<th>Level</th>
<th>Change: Declined by more than 15 points</th>
<th>Change: Declined by 1 to 15 points</th>
<th>Change: Maintained Declined by less than 1 point or Improved by less than 7 points</th>
<th>Change: Increased by 7 to less than 20 points</th>
<th>Change: Increased Significantly by 20 points or more</th>
</tr>
</thead>
</table>
| Status: Very High
45 or more points above | Yellow | Green | Blue | Blue | Blue |
| Status: High
10 above to less than 45 points above | Orange | Yellow | Green | Green | Blue |
| Status: Medium
5 below to less than 10 points above | Orange | Orange | Yellow | Green | Green |
| Status: Low
More than 5 below to 70 points below | Red | Orange | Yellow | Yellow | Yellow |
| Status: Very Low
More than 70 points below | Red | Red | Red | Orange | Yellow |

Tables 36 and 37 show the impact of the new methodology for LEAs and schools. Note that in order to calculate the two-year Change average for 2017, three years of data are used (i.e., 2015, 2016, and 2017). Three years of data would be needed to calculate the two-year Change average for 2016 (i.e., 2014, 2015, and 2016). However, since the 2014 Smarter Balanced Summative Assessments was a field test, no results were produced. For this reason, no comparison data for 2016 is provided in the tables below.
Table 36

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>96</td>
<td>273</td>
<td>788</td>
<td>315</td>
<td>148</td>
</tr>
<tr>
<td>(n = 1,620)</td>
<td>(5.9%)</td>
<td>(16.9%)</td>
<td>(48.6%)</td>
<td>(19.4%)</td>
<td>(9.1%)</td>
</tr>
</tbody>
</table>

Table 37

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>599</td>
<td>1,171</td>
<td>3,328</td>
<td>1,392</td>
<td>772</td>
</tr>
<tr>
<td>(n = 7,262)</td>
<td>(8.3%)</td>
<td>(16.1%)</td>
<td>(45.8%)</td>
<td>(19.1%)</td>
<td>(10.6%)</td>
</tr>
</tbody>
</table>

Using a two-year average for Change resolves the temporary problem exhibited by the negative Change scores in 2017, but brings about its own series of issues. Using an average score for LEAs and schools will not reflect the true year-to-year growth/decline from the prior year, and instead distorts the results by meeting in the middle. This may hinder the LCAP process by not allowing LEAs to see what is really happening each year at their schools. It will also reflect artificial improvement or decline in years when good/bad scores drop out of the averaging calculation.

The next section shows the impact of the two-year average for mathematics.
Table 38: Current Color Designation and Current Cut Scores—Mathematics

<table>
<thead>
<tr>
<th>Level</th>
<th>Change: Declined Significantly by more than 10 points</th>
<th>Change: Declined by 1 to 10 points</th>
<th>Change: Maintained Declined by less than 1 point or Improved by less than 5 points</th>
<th>Change: Increased by 5 to less than 15 points</th>
<th>Change: Increased Significantly by 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status: Very High</td>
<td>Yellow</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>35 or more points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: High</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
</tr>
<tr>
<td>5 below to less than 35 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: Medium</td>
<td>Orange</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>More than 5 points below to 25 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: Low</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 25 points below to 95 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status: Very Low</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 95 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Tables 39 and 40 show the impact of the two-year average on schools and LEAs.

Table 39

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>134</td>
<td>287</td>
<td>733</td>
<td>320</td>
<td>145</td>
</tr>
<tr>
<td>(n = 1,619)</td>
<td>(8.3%)</td>
<td>(17.8%)</td>
<td>(45.3%)</td>
<td>(19.8%)</td>
<td>(9.0%)</td>
</tr>
</tbody>
</table>

Table 40

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>585</td>
<td>1,231</td>
<td>3,066</td>
<td>1,601</td>
<td>777</td>
</tr>
<tr>
<td>(n = 7,260)</td>
<td>(8.1%)</td>
<td>(17.0%)</td>
<td>(42.2%)</td>
<td>(22.1%)</td>
<td>(10.7%)</td>
</tr>
</tbody>
</table>

Again, the two-year average resolves the most immediate issues confronting LEAs and schools that had performance levels dramatically drop in 2017 using the current methodology and cut scores. However, the caveats raised earlier continue to apply. (Please see discussion following Table 37.)
The Academic Indicator, by definition, is an average of the DF3 at the LEA, school, and student group levels. Combining more than one year of data creates an average of an average, which is difficult to interpret and communicate, especially when discussing progress and setting goals for the annual LCAP. In addition, it masks the difference in results from one year to the next and it is not the best statistical method for use in an accountability system. The TDG also agrees that using “an average of an average” for the Academic Indicator is not a technically viable option.

In the next section, a side-by-side comparison of all options is provided.
Summary Comparison of All Options for Local Educational Agencies

Tables 41 through 46 below summarize the results for the current methodology, as well the TDG recommended methodology and Options 2, 3, and 4.

Table 41: Current Color Designation and Current Cut Scores

<table>
<thead>
<tr>
<th>Year</th>
<th>Content Area</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>ELA</td>
<td>81 (5.2%)</td>
<td>177 (11.3%)</td>
<td>751 (47.8%)</td>
<td>354 (22.5%)</td>
<td>208 (13.2%)</td>
</tr>
<tr>
<td>2017</td>
<td>ELA</td>
<td>169 (10.4%)</td>
<td>487 (30.1%)</td>
<td>607 (37.5%)</td>
<td>248 (15.3%)</td>
<td>109 (6.7%)</td>
</tr>
<tr>
<td>2016</td>
<td>Math</td>
<td>119 (7.6%)</td>
<td>217 (13.8%)</td>
<td>723 (46.1%)</td>
<td>320 (20.4%)</td>
<td>191 (12.2%)</td>
</tr>
<tr>
<td>2017</td>
<td>Math</td>
<td>231 (14.3%)</td>
<td>410 (25.3%)</td>
<td>605 (37.4%)</td>
<td>259 (16.0%)</td>
<td>114 (7.0%)</td>
</tr>
</tbody>
</table>

Table 42: Option 1—TDG Recommended Methodology—New Cut Scores and New Color Designation

<table>
<thead>
<tr>
<th>Year</th>
<th>Content Area</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>ELA</td>
<td>48 (3.1%)</td>
<td>266 (16.9%)</td>
<td>629 (40.0%)</td>
<td>379 (24.1%)</td>
<td>249 (15.9%)</td>
</tr>
<tr>
<td>2017</td>
<td>ELA</td>
<td>64 (4.0%)</td>
<td>628 (38.7%)</td>
<td>404 (24.9%)</td>
<td>391 (24.1%)</td>
<td>133 (8.2%)</td>
</tr>
<tr>
<td>2016</td>
<td>Math</td>
<td>47 (3.0%)</td>
<td>381 (24.3%)</td>
<td>579 (36.9%)</td>
<td>374 (23.8%)</td>
<td>189 (12.0%)</td>
</tr>
<tr>
<td>2017</td>
<td>Math</td>
<td>89 (5.5%)</td>
<td>600 (37.1%)</td>
<td>456 (28.2%)</td>
<td>349 (21.6%)</td>
<td>125 (7.7%)</td>
</tr>
</tbody>
</table>

Table 43: Option 2—New Color Designation and Current Cut Scores

<table>
<thead>
<tr>
<th>Year</th>
<th>Content Area</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>ELA</td>
<td>59 (3.8%)</td>
<td>174 (11.1%)</td>
<td>746 (47.5%)</td>
<td>375 (23.9%)</td>
<td>217 (13.8%)</td>
</tr>
<tr>
<td>2017</td>
<td>ELA</td>
<td>74 (4.6%)</td>
<td>481 (29.7%)</td>
<td>569 (35.1%)</td>
<td>323 (19.9%)</td>
<td>173 (10.7%)</td>
</tr>
<tr>
<td>2016</td>
<td>Math</td>
<td>52 (3.3%)</td>
<td>242 (15.4%)</td>
<td>723 (46.1%)</td>
<td>357 (22.7%)</td>
<td>196 (12.5%)</td>
</tr>
<tr>
<td>2017</td>
<td>Math</td>
<td>93 (5.7%)</td>
<td>434 (26.8%)</td>
<td>609 (37.6%)</td>
<td>336 (20.8%)</td>
<td>147 (9.1%)</td>
</tr>
</tbody>
</table>
### Table 44: Option 3a—New Cut Scores and Current Color Designation

<table>
<thead>
<tr>
<th>Year</th>
<th>Content Area</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>ELA</td>
<td>65 (4.1%)</td>
<td>172 (11.0%)</td>
<td>725 (46.2%)</td>
<td>363 (23.1%)</td>
<td>246 (15.7%)</td>
</tr>
<tr>
<td>2017</td>
<td>ELA</td>
<td>155 (9.6%)</td>
<td>453 (28.0%)</td>
<td>599 (37.0%)</td>
<td>285 (17.6%)</td>
<td>128 (7.9%)</td>
</tr>
<tr>
<td>2016</td>
<td>Math</td>
<td>82 (5.2%)</td>
<td>226 (14.4%)</td>
<td>719 (45.8%)</td>
<td>355 (22.6%)</td>
<td>188 (12.0%)</td>
</tr>
<tr>
<td>2017</td>
<td>Math</td>
<td>168 (10.4%)</td>
<td>428 (26.4%)</td>
<td>604 (37.3%)</td>
<td>305 (18.8%)</td>
<td>114 (7.0%)</td>
</tr>
</tbody>
</table>

### Table 45: Option 3b—New Cut Scores and Alternate New Color Designation

<table>
<thead>
<tr>
<th>Year</th>
<th>Content Area</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>ELA</td>
<td>43 (2.7%)</td>
<td>173 (11.0%)</td>
<td>720 (45.8%)</td>
<td>381 (24.3%)</td>
<td>254 (16.2%)</td>
</tr>
<tr>
<td>2017</td>
<td>ELA</td>
<td>60 (3.7%)</td>
<td>460 (28.4%)</td>
<td>567 (35.0%)</td>
<td>349 (21.5%)</td>
<td>184 (11.4%)</td>
</tr>
<tr>
<td>2016</td>
<td>Math</td>
<td>46 (2.9%)</td>
<td>225 (14.3%)</td>
<td>728 (46.4%)</td>
<td>380 (24.2%)</td>
<td>191 (12.2%)</td>
</tr>
<tr>
<td>2017</td>
<td>Math</td>
<td>88 (5.4%)</td>
<td>405 (25.0%)</td>
<td>641 (39.6%)</td>
<td>335 (20.7%)</td>
<td>150 (9.3%)</td>
</tr>
</tbody>
</table>

### Table 46: Option 4—Two-Year Average (Current Color Designation and Current Cut Scores)

<table>
<thead>
<tr>
<th>Year</th>
<th>Content Area</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>ELA</td>
<td>96 (5.9%)</td>
<td>273 (16.9%)</td>
<td>788 (48.6%)</td>
<td>315 (19.4%)</td>
<td>148 (9.1%)</td>
</tr>
<tr>
<td>2017</td>
<td>Math</td>
<td>134 (8.3%)</td>
<td>287 (17.8%)</td>
<td>733 (45.3%)</td>
<td>320 (19.8%)</td>
<td>145 (9.0%)</td>
</tr>
</tbody>
</table>
Update on the Chronic Absenteeism Indicator

Background

In September 2016, the State Board of Education (SBE) adopted Chronic Absenteeism as a state indicator in the California School Dashboard (Dashboard). Chronic Absenteeism is a metric required under the Local Control Funding Formula (LCFF) as part of Priority 5: Pupil Engagement. In addition, under the Every Student Succeeds Act (ESSA), states are required to collect data to identify students who are chronically absent and report chronic absenteeism rates for schools in the State Report Card (California Education Code (EC) Section 1111[h][1][C][viii]).

In accordance with the Local Control and Accountability Plan Template (Appendix A), Chronic Absenteeism is defined as being absent ten percent or more of the schooldays in the school year. The Chronic Absenteeism rate is calculated by dividing the number of students who are chronically absent by an unduplicated count of the number of students enrolled during the school year.

To facilitate the collection of these data elements, the California Department of Education (CDE) developed and implemented a new data collection in the California Longitudinal and Pupil Achievement Data System (CALPADS) effective in the 2016–17 school year. This collection occurred between May 15 and August 25, 2017. Accordingly, this data was not available for inclusion in the Spring 2017 Dashboard release.

To support local educational agencies (LEAs) with this new data collection, the CALPADS team offered special training courses in April and May 2017. The courses provided participants with a review of the required data elements, validation rules, reports, and certification components in CALPADS. Staff from approximately 828 LEAs participated in these trainings.

To assist LEAs in preparing for this new data collection cycle, the CDE emphasized during the implementation process that the absenteeism data collected through CALPADS is a separate collection from the average daily attendance (ADA) data submission. The purpose of the ADA collection is for funding the LCFF or other similarly based programs. However, to the extent possible, the CDE utilized the same definitions so that LEAs could use the data that they already collected through the ADA submission process for their student-level submission to CALPADS.

In addition, since this data collection occurs through CALPADS on an annual basis, the CDE also emphasized to LEAs that it: (1) is not intended to be an early warning system, and (2) will be useful to identify schools/LEAs that may require assistance in addressing attendance problems.
Data Elements Collected

The information collected in CALPADS for each enrolled student includes the following aggregate counts for the year:

- The number of days a student could have attended
- The number of days a student attended
  - Regular Classroom
  - In-house Suspension
- The number of days a student was absent
  - Excused
  - Unexcused
  - Out-of-school Suspension

Based on the student-level data submitted, LEAs received a certification report in CALPADS with the following information:

CALPADS Certification Report 14.1

<table>
<thead>
<tr>
<th>Absence Category</th>
<th>Count of Students with Percent Absence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Satisfactory Attendance</td>
<td>&lt; 5%</td>
</tr>
<tr>
<td>At-Risk</td>
<td>≥ 5% and &lt; 10%</td>
</tr>
<tr>
<td>Moderate Chronic Absent</td>
<td>≥ 10% and &lt; 20%</td>
</tr>
<tr>
<td>Severe Chronic Absent</td>
<td>≥ 20%</td>
</tr>
</tbody>
</table>

Status of Data Analysis

As indicated in the September 2017 SBE Agenda 2, Attachment 6 (https://www.cde.ca.gov/be/ag/ag/yr17/documents/sep17item02.doc), the CDE anticipated completing the data analysis to provide to the Technical Design Group (TDG) at their meeting on October 25, 2017. The initial review indicates that the first data collection is of high quality; however, additional analysis is required at the student group level that could not be completed prior to the TDG meeting. The CDE plans to continue the technical review of the data and is currently preparing the data for posting to the CDE’s data reporting Web site, DataQuest, for release at the same time as the Fall 2017 Dashboard.

Following the completion of the student-level analysis and review by the TDG, the CDE recommends that the SBE include information in the Fall 2017 Dashboard to redirect users to the Chronic Absenteeism reports on DataQuest. It also recommends that the SBE direct CDE staff to develop a recommendation for the March 2018 SBE meeting on
proposed Status cut scores that will subsequently be used to update the Fall 2017 Dashboard Chronic Absenteeism Indicator. Finally, it recommends that the SBE direct CDE staff to develop a recommendation for the September or November 2018 SBE meeting on proposed Change cut scores.
School Climate Local Indicator: Update on the Work Of School Conditions and Climate Work Group (CCWG) Recommendations

At its July 2016 meeting, the State Board of Education (SBE) approved a methodology for establishing standards for local performance indicators, including one related to the use of local climate surveys to support a broader assessment of performance related to Local Control Funding Formula (LCFF) Priority 6-School Climate. The SBE adopted the LCFF Evaluation Rubrics, including the standard for the use of local climate surveys, at its September 2016 meeting (http://www.cde.ca.gov/be/ag/ag/yr16/documents/sep16item01.doc). The approved approach focuses on the initial year of implementation of the LCFF Evaluation Rubrics as the state transitions to an integrated local, state, and federal accountability and continuous improvement system.

Background

The California Department of Education (CDE), in partnership with the California Comprehensive Center at WestEd, convened with the CCWG to explore options for the further development of school conditions and climate measures in California’s accountability and continuous improvement system. The role of the CCWG is advisory to the CDE and the State Superintendent of Public Instruction (SSPI). The CCWG includes a broad range of stakeholders including practitioners, researchers, and advocates.

Since September 2016, the CDE and CCWG have actively engaged, the California Practitioners Advisory Group (CPAG), local educational agencies (LEAs), and other external stakeholders in the process of creating and reviewing emerging ideas generated by the work group. The CCWG has worked diligently to synthesize their thinking and incorporate SBE, CPAG and stakeholder feedback to prepare a comprehensive set of recommendations to the CDE and SPI.

The primary recommendations developed by the CCWG provide a framework for state and LEA level action and were included in the CCWG’s final recommendation framework. The framework includes detailed state and LEA level recommendations, a rationale for each, as well as a list of the CCWG members and was presented to the SBE via an Information Memorandum on October 26, 2017 (https://www.cde.ca.gov/be/pn/im/documents/memo-oct-oct17item01.doc and https://www.cde.ca.gov/be/pn/im/documents/memo-oct-oct17item01a1.pdf). SBE members will be presented with a summary report of the work of the CCWG during the November 2017 SBE Meeting.

This attachment presents a synthesis of the CCWG recommendations the CDE will likely bring forward to the SBE for discussion and approval which can be acted upon with existing resources and authority at a future SBE Meeting. In the interim, the CDE
will seek additional stakeholder feedback on the proposed recommendations (see Stakeholder Engagement Timeline) beginning in November 2017.

No action is recommended at this time. However, The CDE recommends that the SBE provide direction, feedback, and guidance on the CCWG update.

The CDE also recommends that the SBE take additional action as deemed necessary and appropriate on school conditions and climate policy-related decisions.

**CCWG Scope**

The CCWG’s process began with SBE direction to explore the development and inclusion of further school climate measures into the LCFF Evaluation Rubrics. The CDE, in partnership with the California Comprehensive Center at WestEd, then convened a working group of experts to review the literature on school climate, social-emotional learning, and academic perseverance, and other states’ approaches to incorporating school climate measures in their accountability and improvement systems.

Based on their review of the literature, the approach of other states, the experience of California LEAs and networks, and ongoing input from stakeholders, the working group was charged with identifying and analyzing existing measures for school climate. They identified options for how California could proceed by using or adapting existing measures, or developing one or more new measures for use as an indicator in the accountability and continuous improvement system.

In addition, the working group identified tools, resources, and surveys that measure broader aspects of school climate, such as, parental involvement, conditions of learning, implementation of state academic standards, access to broad courses of study, and the coordination of services. Thus, the CCWG’s work continues to inform accountability and continuous improvement activities relevant to LCFF Priorities 1, 2, 3, 7, 8, 9 and 10.

An underlying principle guiding the work of the CCWG is the shared commitment to view school climate and conditions through three lenses: 1) equity, 2) validity and 3) meaningful family engagement. In consultation with stakeholders, the CCWG generated a school conditions and climate definition and set of features to establish a common foundation for the CCWG’s suggestions for policy development in the area of school conditions and climate. All of the CCWG’s recommendations are based on this common definition (see below).

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In light of this, the CCWG has developed a set of comprehensive recommendations for implementation at the state and LEA level to build capacity and supports for LEAs to measure and report their progress on school conditions and climate. These recommendations apply to all LEAs, schools, and student groups (e.g., race/ethnicity, socioeconomically disadvantaged, foster youth, English Learners, and students with disabilities). Several of the CCWG’s recommendations will require additional state financial support, and, potentially, modifications of statute. The SPI and CDE will be actively working towards the implementation of the full set of CCWG recommendations in collaboration with stakeholders.

**Current SBE Adopted Approach and Self-Reflection Tool**

The current SBE adopted approach for the School Climate Local Indicator is as follows:

*Standard*: LEA administers a local climate survey at least every other year that provides a valid measure of perceptions of school safety and connectedness, such as the California Healthy Kids Survey, to students in at least one grade within the grade span(s) that the LEA serves (e.g., K-5, 6-8, 9-12), and reports the results to its local governing board at a regularly scheduled meeting of the local governing board and to stakeholders and the public through the dashboard.

*Evidence*: LEA determines whether it administered a survey as specified and reported the results to its local governing board and through the local data selection option in the Dashboard.

*Criteria*: LEA assesses its performance on a [Met / Not Met / Not Met for Two or More Years] scale.

The current Dashboard Self-Reflection Tool states that:

LEAs will provide a narrative summary of the local administration and analysis of a local climate survey that captures a valid measure of student perceptions of school safety and connectedness in at least one grade within the grade span (e.g., K–5, 6–8, 9–12) in a text box provided in the Dashboard. Specifically, LEAs will have an opportunity to include differences among student groups, and for surveys that provide an overall score, such as the California Healthy Kids Survey, report the overall score for all students and student groups. This summary may also include an analysis of a subset of specific items on a local survey that is particularly relevant to school safety and connectedness.
Proposed Draft Recommendations for Future Consideration in 2018

1. Approve the inclusion of useful tools, resources, and supports for school conditions and climate within the developing Statewide System of Support to support the capacity of system actors such as county offices of education, LEAs, and schools.

2. Approve the proposed update to the Self-Reflection Tool that guides LEAs in determining progress on the local performance indicators for School Conditions and Climate (Priority 6).

3. Direct the CDE to conduct further analysis to explore options for a combination and integration of self-reflection tools that can determine progress on multiple local indicators concurrently, to minimize duplication of effort. – i.e., Parent Engagement (Priority 3) and School Climate (Priority 6).

Impact on Local Indicators

The proposed recommendations will pose an impact on the local indicators for LCFF Priority 6. In addition, should the CDE develop and the SBE approve, a self-reflection tool that combines multiple local indicators, there could be an impact on local level implementation of the approved standards for Priorities 3 and 6 at the time of implementation.
The following is a DRAFT revision to the self-reflection tool, from which the CDE will seek stakeholder feedback. The self-reflection tool is intended to assist LEAs in measuring and reporting progress on the local performance indicator for School Conditions and Climate (Priority 6).

**Proposed Update for the Self-Reflection Tool for School Climate (Priority 6)**

LEAs will provide a narrative summary of the local administration and analysis of a local climate survey that captures a valid measure of student perceptions of school safety and connectedness in at least one grade within the grade span (e.g., K–5, 6–8, 9–12) in a text box provided in the Dashboard. LEAs will have an opportunity to include differences among student groups, and for surveys that provide an overall score, report the overall score for all students and student groups. This summary may also include an analysis of a subset of specific items on a local survey that is particularly relevant to school conditions and climate. Specifically, the LEA should include responses to the following guiding questions to help frame the narrative summary.

1. Reflect on the key learnings from the survey results, and share what the LEA learned.

2. Given the disaggregated results of the survey and other data collection methods, what does that reveal about schools in the LEA?

3. What revisions, decisions, or new actions will the LEA implement in response to the results for continuous improvement purposes? Why?

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7 LEAs should report the results of their school conditions and climate tools on the Dashboard, by including a URL to a district website that shows the school conditions and climate survey results, disaggregated by student groups, with a minimum n-size, for each school site, if applicable.
Timeline for Ongoing Developmental Activities for School Conditions and Climate (LCFF Priority 6)\(^8\)

The CDE will continue to explore options to implement the remaining School Conditions and Climate Work Group (CCWG) recommendations to further the development of school conditions and climate measures in California’s accountability and continuous improvement system, including seeking additional stakeholder feedback on the proposed recommendations beginning in November 2017.

<table>
<thead>
<tr>
<th>Date</th>
<th>Suggested Method</th>
<th>Event Details</th>
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</thead>
<tbody>
<tr>
<td>December 2017</td>
<td>In-person</td>
<td>• The CCWG will continue working to develop and refine recommendations</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• California Practitioners Advisory Group (CPAG), December, 5, 2017</td>
</tr>
<tr>
<td>January 2018</td>
<td>Webinar</td>
<td>• The CCWG will continue working to develop and refine recommendations</td>
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<tr>
<td></td>
<td></td>
<td>• LCFF Evaluation Rubrics Local Performance Indicators: Update on School Conditions and Climate Work Group (Priority 6) (Date and Time to be determined (TBD))</td>
</tr>
<tr>
<td>February 2018</td>
<td>In-Person</td>
<td>• The CCWG will continue working to develop and refine recommendations</td>
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<tr>
<td></td>
<td></td>
<td>• CPAG, February 15, 2018</td>
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<tr>
<td></td>
<td></td>
<td>• Stakeholder Engagement Session (Date, Time, Location, TBD)</td>
</tr>
<tr>
<td>March 2018</td>
<td>In-Person</td>
<td>• The CCWG will continue working to develop and refine recommendations</td>
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<tr>
<td></td>
<td></td>
<td>• Note: The CDE anticipates presenting preliminary recommendations/options to the State Board of Education (SBE) for transition plan to support the use of school conditions and climate measures in the accountability and continuous improvement system (SBE Meeting in March 2018)</td>
</tr>
<tr>
<td>April 2018</td>
<td>TBD</td>
<td>• If necessary, the CCWG will continue working to develop and refine recommendations</td>
</tr>
</tbody>
</table>

\(^8\) Dates and proposed development activities are subject to change.
School Conditions and Climate Work Group Definition and Features

Definition

“School Conditions and Climate” refers to the character and quality of school life. This includes the values, expectations, interpersonal relationships, materials and resources, supports, physical environment, and practices that foster a welcoming, inclusive, and academically challenging environment. Positive school climate and conditions ensure people in the school community (students, staff, family, and community) feel socially, emotionally, and physically safe, supported, connected to the school, and engaged in learning and teaching.

Features

Features that promote a positive school climate and affect the attitudes, behaviors, and performance of both students and staff include, but are not limited to:

- An intentional student-centric commitment to meeting the basic-cognitive, social, emotional, and physical health needs of youth and fostering the competencies and mindsets that contribute to success in school, career, and life;
- Caring, trusting, respectful relationships among and between students, staff, parents, and families;
- High expectations for academic achievement and behavior and the social-emotional and pedagogical supports students need to meet those expectations;
- The presence of meaningful stakeholder participation that fosters a sense of contribution, empowerment, and ownership; and
- A sense of order and safety grounded in clearly communicated rules and expectations, and fair and equitable discipline
- Well-maintained resources and facilities.

Lenses

Equity: The landscape of California schools includes a rich diversity of students with diverse needs that should be embraced to support community collaboration in a welcoming and responsive way. The CCWG’s intentional equity frame is intended to drive action aimed at increasing equity utilizing multiple layers of data disaggregation, including state, LEA, school, and student group levels.

Validity: When considering what we measure, how we measure it, and how to interpret scores, we must work to ensure stakeholder understanding of the evidence to support particular uses of data. This includes helping data users to better understand tradeoffs when making choices about instruments related to issues with validity, reliability, fairness, and bias.

Family Engagement: Research shows that parent engagement improves academic achievement and school connectedness. It is essential to capture and reflect a diverse set of
parent voices in the recommendation. To that end, the CDE will link existing and ongoing work supporting Family Engagement to the CCWG with an additional work group and/or focus groups as necessary.
Local Performance Indicator for Priority 7-Access to a Broad Course of Study

At its November 2016 meeting, the State Board of Education (SBE) approved tools for local educational agencies (LEAs) to determine progress on the local performance indicators for the Local Control Funding Formula (LCFF) Priority 1-Basics, Priority 6-School Climate, Priority 9-Coordination of Services for Expelled Students, and Priority 10-Coordination of Services for Foster Youth (http://www.cde.ca.gov/be/ag/ag/yr16/documents/nov16item03.doc). At its January 2017 meeting, the SBE approved tools for LEAs to determine progress on the local performance indicators for LCFF Priority 2-State Academic Standards and Priority 3-Parent Engagement (http://www.cde.ca.gov/be/ag/ag/yr17/documents/jan17item02.doc). LEAs will use these self-reflection tools to evaluate and report their progress on the California School Dashboard (Dashboard) in the local performance indicators.

This attachment describes an approach to determine progress on the local performance indicator for LCFF Priority 7-Access to a Broad Course of Study using a narrative summary based on locally identified measures. The California Department of Education (CDE) recommends the SBE approve the inclusion of a local indicator for Priority 7 and adopt standards for the local indicator consistent with the standards adopted by the SBE for the current local indicators. The CDE will seek stakeholder feedback on the proposed self-reflection tool from October 2017 to February 2018 and present the final draft to the SBE at its March 2018 meeting for approval and integration into the Fall 2018 Dashboard release.

Background

The LCFF statute requires that the evaluation rubrics include standards for all LCFF priorities. An LEA’s performance, as assessed by the evaluation rubrics, is determined by state and local performance indicators and is reported through the Dashboard. State indicators meet the criteria of: (1) being valid and reliable measures, (2) having comparable state-level data, and (3) being disaggregated by student groups. These criteria ensure a common and comparable way of measuring performance on the indicators across the state, including for student groups. The SBE adopted state indicators for Priority 4-Student Achievement, Priority 5-Student Engagement, and Priority 6 at their September 2016 meeting.

However, Priorities 1, 2, 3, 7, 9, and 10, and one metric from Priority 6 do not have indicators that meet the criteria for state indicators. At its September 2016 meeting, the SBE set standards that support LEAs in tracking and reporting their progress within the remaining LCFF priorities through local performance indicators.

The initial phase of the evaluation rubrics included local performance indicators for the following LCFF priorities:
• Appropriately Assigned Teachers, Access to Curriculum-Aligned Instructional Materials, and Safe, Clean and Functional School Facilities (Priority 1)

• Implementation of State Academic Standards (Priority 2)

• Parent Engagement (Priority 3)

• School Climate—Local Climate Surveys (Priority 6)

• Coordination of Services for Expelled Students—County Offices of Education (COEs) Only (Priority 9)

• Coordination of Services for Foster Youth—COEs Only (Priority 10)

At its September 2016 meeting, the SBE approved standards and the scale by which an LEA will assess its performance of meeting the standards for each of these local performance indicators (http://www.cde.ca.gov/be/ag/ag/yr16/documents/sep16item01.doc). For each local indicator, the standard involves:

1. Measuring LEA progress on the local performance indicator based on locally available information, and

2. Reporting the results to the LEA’s local governing board at a regularly scheduled meeting and to stakeholders and the public through the evaluation rubrics.

LEAs assess their performance of meeting the SBE approved standards on a (Met, Not Met, or Not Met for More than Two Years) scale. LEAs make this determination by using SBE-adopted self-reflection tools that report an LEA’s progress through the Dashboard. The CDE is proposing adding the new local indicator and self-reflection tool for Priority 7-Access to a Broad Course of Study into the Dashboard for the Fall 2018 release.
The following is a DRAFT self-reflection tool, from which the CDE will seek stakeholder feedback. The self-reflection tool is intended to assist LEAs in measuring and reporting progress on the local performance indicator for Access to a Broad Course of Study (Priority 7).

**Self-Reflection Tool for Access to a Broad Course of Study—Priority 7**

- **Standard:** LEA annually measures the extent to which students have access to, and are enrolled in, a broad course of study consistent with California *Education Code* (EC) Section 51210 and in EC Section 51220 (a) through (i), based on grade spans, unduplicated pupil groups, and individuals with exceptional needs served, and reports the results both to its local governing board at a regularly scheduled meeting of the local governing board and to stakeholders and the public through the Dashboard.

- **Evidence:** LEA determines whether it annually measured its progress through the use of a self-reflection tool included in the Dashboard, and reported the results to its local governing board at a regularly scheduled meeting of the local governing board and through the local data selection option in the Dashboard.

- **Criteria:** LEA determines whether or not it has met the standard on the (*Met, Not Met, or Not Met for Two or More Years*) scale.

**Approach for Self-Reflection Tool to Use as Evidence**

LEAs provide a narrative summary of the extent to which all students have access to and are enrolled in a broad course of study by addressing, at a minimum, the following three prompts:

1. Briefly identify the locally selected measures or tools that the LEA is using to track the extent to which students have access to, and are enrolled in, a broad course of study consistent with *EC* Section 51210 and in *EC* Section 51220 (a) through (i), based on grade spans, unduplicated student groups, and individuals with exceptional needs served.

2. Briefly describe why the LEA chose the selected measures or tools.
3. Using the locally selected measures or tools, summarize the extent to which students have access to, and are enrolled in, a broad course of study. The summary may identify differences across school sites and/or student groups in access to, and enrollment in, a broad course of study, and may describe progress over time in the extent to which students have access to, and are enrolled in, a broad course of study.

Additional information about enrollment in courses and the number of courses offered in different subjects at schools is available on the CDE DataQuest Web page at http://data1.cde.ca.gov/dataquest/page2.asp?Level=District&subject=Course.
Update on the California School Dashboard

The California Department of Education (CDE) and State Board of Education staff continue to prepare the data, communication resources, and technical components for the public release of the Fall 2017 California School Dashboard (Dashboard) (https://www.caschooldashboard.org/). To support the public rollout planned for the week of November 27, 2017, CDE staff presented at several conferences, including, but not limited to, the annual CDE North/South Assessment and Accountability Meetings; California Association of Administrators of State and Federal Education Programs; Advisory Commission on Special Education; and Local Control Funding Formula Stakeholder meeting.

Additionally, a six-part Webinar series began on October 26, 2017 with a general introduction to the Dashboard and the local indicators, and culminates in early December following the 2017 Fall Dashboard release on how to use this new data in the Local Control and Accountability Plan process. Additional information about each of the Webinars is available on the CDE Fall 2017 Dashboard Webinar Series Web page at https://www.cde.ca.gov/ta/ac/cm/fall2017webinars.asp. The series complements the local educational agency private preview of the Dashboard, which begins November 1, 2017, with a rolling release of two state indicators per week through the week prior to Thanksgiving.

An updated Dashboard Technical Guide and resource materials are in development for the public release. The resource materials include handouts that focus on English learners in the Dashboard, an introduction to the College/Career Indicator, overview of the Dashboard Alternative Schools Status, and how to use the 5 x 5 placement grids and reports. Spanish translations of the handouts will be available on the Dashboard Web site and CDE California Accountability Model & School Dashboard Web page at https://www.cde.ca.gov/dashboard.
CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2017 AGENDA

SUBJECT
Developing an Integrated Local, State, and Federal Accountability and Continuous Improvement System: Approval of the Recommended Revisions to the Academic Indicator and the Recommendation for Chronic Absenteeism for the Fall 2017 Dashboard Release; Updates and Recommended Action Regarding Local Indicators; and Update on the California School Dashboard.

SUMMARY OF THE ISSUE(S)
With the approval of a new accountability system in May 2016, the State Board of Education (SBE) established an annual review process of the Local Control Funding Formula (LCFF) evaluation rubrics, which is reported through the online California School Dashboard (Dashboard). This process includes the review of state and local indicators and performance standards to consider necessary changes or improvements based on newly available data, recent research, and/or stakeholder feedback. Under this process, the California Department of Education (CDE) includes state and local indicators that need revisions or updates in the work plan presented at each March SBE meeting. This process allows for a gradual and deliberate approach to improving the state and local indicators and incorporating changes prior to the annual release of the Dashboard each fall.

RECOMMENDATION
The CDE recommends that the SBE take the following action:

1. For the Academic Indicator: approve new Change cut scores, new High and Medium Status cut scores for mathematics, and a new color designation for the five-by-five grid (as detailed in Attachment 1).

2. For the Chronic Absenteeism Indicator: include information in the Fall 2017 Dashboard that redirects users to the Chronic Absenteeism reports on DataQuest. Additionally, direct CDE staff to develop a recommendation for the March 2018 SBE meeting on proposed Status cut scores that will subsequently be used to update the Fall 2017 Dashboard Chronic Absenteeism Indicator. Finally, direct CDE staff to develop a recommendation for the September or November 2018 SBE meeting on proposed Change cut scores (as detailed in Attachment 2).
3. For the local indicator for LCFF Priority 7-Access to Broad Course of Study: adopt standards for the local indicator consistent with the standards adopted by the SBE for the current local indicators (as detailed in Attachment 4).

**BRIEF HISTORY OF KEY ISSUES**

Throughout the development of the new Accountability and Continuous Improvement System, the SBE has emphasized its commitment to review and revise the indicators and performance standards, as appropriate, as new data become available and as LEAs and stakeholders provide feedback on using the Dashboard over time.

**Academic Indicator**

At prior SBE meetings, the SBE has demonstrated a commitment to this principle of continuous improvement leading up to the adoption of the Academic Indicator. Specifically, in September 2016, the SBE decided that using one year of Smarter Balanced Assessment data provided limited information to base accountability decisions for LEAs and schools upon, and directed staff to incorporate the second year of Smarter Balanced Assessment data to determine the “Change” results. At the SBE November 2016 meeting, the SBE requested the use of scale scores to calculate the Academic Indicator results to provide a more precise measure of LEA and school Status and Change. Additionally, at the January 2017 meeting, the SBE approved a methodology based on the scale scores (Distance from Level 3) and set the Status and Change cut scores for the Academic Indicator. In September 2017, the CDE informed the SBE that it would present the analysis of the 2017 Smarter Balanced Summative Assessments results to the Technical Design Group in October 2017, and bring any recommended changes for SBE consideration to the November 2017 SBE meeting.

**Chronic Absenteeism Indicator**

In September 2016, the SBE adopted the Chronic Absenteeism Indicator. Chronic Absenteeism is a metric required under LCFF (as part of Priority 5: Pupil Engagement). In addition, under the Every Student Succeeds Act, states are required to collect data to identify students who are chronically absent and report Chronic Absenteeism rates for schools in the State Report Card (California Education Code (EC) Section 1111[h][1][C][viii]).

The CDE collected information on Chronic Absenteeism for the first time at the end of the 2016–17 school year through the California Longitudinal Pupil Achievement Data System. In September 2017, the CDE indicated that, based on the availability and review of the data, this item would return for SBE action in November 2017.

**School Conditions and Climate Workgroup**

The CDE convened the CCWG to advise the State Superintendent of Public Instruction on proposed revisions to LCFF Priority 6. The CCWG explored multiple options for the further development of school conditions and climate measures in California's
Accountability and Continuous Improvement System. The group includes a broad range of stakeholders, including practitioners, researchers, and advocates. A description of the recommendations and work of the CCWG is included in the October 2017 SBE Information Memorandum. ([https://www.cde.ca.gov/be/pn/im/documents/memo-oct17item01.doc](https://www.cde.ca.gov/be/pn/im/documents/memo-oct17item01.doc) and [https://www.cde.ca.gov/be/pn/im/documents/memo-oct17item01a1.pdf](https://www.cde.ca.gov/be/pn/im/documents/memo-oct17item01a1.pdf))

Local Performance Indicator for Access to a Broad Course of Study (Priority 7)

At their July 2016 meeting, the SBE approved the College/Career Indicator (CCI) as a state indicator to address standards for LCFF Priority 7 (Access to Access to a Broad Course of Study) and Priority 8 (Outcomes in Access to a Broad Course of Study). As a measure of postsecondary preparedness, an LEA’s performance on the CCI is calculated using multiple appropriate measures including, but not limited to, career technical pathway completion, Early Assessment Program scores, Advanced Placement exam scores, dual enrollment, International Baccalaureate Diploma completion, and a-g course completion. The CCI Workgroup continues to work on the further improvement of the CCI.

These measures, however, do not provide sufficient information to determine an LEA’s progress toward addressing the extent to which students have access to, and are enrolled in, Access to a Broad Course of Study (Priority 7). In September 2017, the CDE indicated to the SBE that they would develop a local indicator for Priority 7 for consideration at the November 2017 SBE meeting and adopt standards for the local indicator consistent with the standards adopted by the SBE for the current local indicators.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Academic Indicator

In January 2017, the SBE adopted performance standards for the Academic Indicator, using the methodology known as “Distance from Level 3,” or DF3. DF3 is the average distance between students’ scale scores on the Smarter Balanced Summative Assessments for English language arts/literacy (ELA) and mathematics and the lowest possible score for the Standard Met Achievement Level (Level 3). ([http://www.cde.ca.gov/be/ag/ag/yr17/documents/jan17item02.doc](http://www.cde.ca.gov/be/ag/ag/yr17/documents/jan17item02.doc) and [http://www.cde.ca.gov/be/ag/ag/yr17/documents/jan17item02a1addendum.doc](http://www.cde.ca.gov/be/ag/ag/yr17/documents/jan17item02a1addendum.doc))

In September 2016, the SBE directed CDE staff to develop recommended cut scores and performance categories for the ELA and mathematics assessments in grades three through eight. ([http://www.cde.ca.gov/be/ag/ag/yr16/documents/sep16item01.doc](http://www.cde.ca.gov/be/ag/ag/yr16/documents/sep16item01.doc))

Chronic Absenteeism Indicator

In May 2016, the SBE adopted Chronic Absenteeism as a state indicator. ([http://www.cde.ca.gov/be/ag/ag/yr16/documents/may16item02revised.doc](http://www.cde.ca.gov/be/ag/ag/yr16/documents/may16item02revised.doc))
In November 2014, the SBE adopted the LCFF template, which included the formula for calculating the Chronic Absenteeism rate.
(http://www.cde.ca.gov/be/ag/ag/yr14/documents/nov14item14.doc)

**School Conditions and Climate Workgroup**

In October 2017, the SBE received the following Information Memorandum:

- School Conditions and Climate Work Group: Recommendation Framework.  
  (https://www.cde.ca.gov/be/pn/im/documents/memo-oct17item01.doc)

In June 2017, the SBE received the following Information Memorandum:

- Update on the School Conditions and Climate Work Group  
  (http://www.cde.ca.gov/be/pn/im/documents/memo-exec-oct-jun17item01.doc)

In March 2017, the SBE received an update on the School Conditions and Climate Workgroup.  
(http://www.cde.ca.gov/be/ag/ag/yr17/documents/mar17item02.doc)

In January 2017, the SBE received the following Information Memorandum:

- Update on the School Conditions and Climate Work Group  
  (http://www.cde.ca.gov/be/pn/im/documents/memo-exe-jan17item01.doc)

In December 2016, the SBE received the following Information Memorandum:

- Update on the Components of LCFF Evaluation Rubrics Including School 
  Climate Priority 6  
  (http://www.cde.ca.gov/be/pn/im/documents/memo-sbe-dec16item02.doc)

In November 2016, the SBE approved self-assessment tools for LEAs to determine progress on the local performance indicator for Priority 6-School Climate.  
(http://www.cde.ca.gov/be/ag/ag/yr16/documents/nov16item03.doc)

In September 2016, the SBE approved the standard for the local performance indicator Priority 6: Local Climate Surveys.  
(http://www.cde.ca.gov/be/ag/ag/yr16/documents/sep16item01.doc)

In August 2016, the SBE received the following Information Memorandum:

- Update on the Establishment of the Workgroup  
  (http://www.cde.ca.gov/be/pn/im/documents/memo-sbe-aug16item01.doc)

In July 2016, the SBE approved the inclusion of a standard for the use of local climate surveys to support a broader assessment of performance on Priority 6.  
(http://www.cde.ca.gov/be/ag/ag/yr16/documents/jul16item02.doc)
In June 2016, the SBE received the following Information Memorandum:

- Process to Identify Options for School Climate Surveys
  (http://www.cde.ca.gov/be/pn/im/documents/memo-dsib-amard-jun16item02.doc)

Local Performance Indicator for Access to a Broad Course of Study (Priority 7)

In December 2016, the SBE received the following Information Memorandum:

- Overview on the Collection of Course Enrollment and Completion Data
  (https://www.cde.ca.gov/be/pn/im/documents/memo-dsib-amard-nov16item01.doc)

FISCAL ANALYSIS (AS APPROPRIATE)

The 2017–18 state budget funds the Proposition 98 Minimum Guarantee at $74.5 billion. This includes an increase of more than $1.4 million to support the continued implementation of LCFF and builds upon the investment of more than $15.7 billion provided over the last four years. This increase brings the formula to 97 percent of full implementation.

ATTACHMENT(S)

Attachment 1: Proposed Revisions for the Academic Indicator (29 Pages)

Attachment 2: Update on the Chronic Absenteeism Indicator (3 Pages)

Attachment 3: School Climate Local Indicator: Update on the School Conditions and Climate Work Group (CCWG) Recommendations (8 Pages)

Attachment 4: Local Performance Indicator for Priority 7-Access to a Broad Course of Study (4 Pages)

Attachment 5: Update on the California School Dashboard (1 Page)
Proposed Revisions for the Academic Indicator

Background

In January 2017, the State Board of Education (SBE) approved the Academic Indicator for inclusion in the California School Dashboard (Dashboard). The Academic Indicator is based on the Smarter Balanced Summative Assessments results for English language arts/literacy (ELA) and mathematics and applies to local educational agencies (LEAs) and schools with grades three through eight. (Grade eleven results are included in the College/Career Indicator and are not included in this indicator.) Calculations for Status and Change use a methodology known as Distance from Level 3, or DF3.

The scale score ranges for the Smarter Balanced Summative Assessments vary by both content area (ELA and mathematics) and grade level. DF3 represents the distance between a student’s score on the Smarter Balanced Summative Assessments and the lowest possible scale score for the Standard Met Achievement Level for each grade level and content area. For example, for the grade five mathematics test, the lowest Level 3 scale score is 2,528. Therefore, each grade five student’s math score is compared to this fixed number. A score of 2,505 is 23 points below Level 3, as illustrated below:

![Grade 5 Scale Score Range for Level 3](image)

Student scored 2,505 (23 points below the lowest possible Level 3 Scale Score)

2,528 (Lowest Score)

2,578 (Highest Score)

Each grade level has different scale score ranges for each of the four achievement levels. In addition, the scale score ranges also differ by content area. As a result, each student’s distance from Level 3 is calculated separately by grade level and content area, and then all of the distances are combined to determine an average. The result is the DF3. The DF3 is calculated for each LEA, school, and student group. These results will show which areas are in need of improvement and the extent to which the average student score falls short of, meets, or exceeds the Level 3 threshold.

Key Issues

The central premise of California’s Accountability and Continuous Improvement System is the consideration of necessary changes or improvements based on newly available data, recent research, and/or stakeholder feedback.
In May 2016, the SBE approved the design for the Dashboard that included the establishment of a unique set of cut scores for each indicator, using distributions based on LEA-level data, which includes charter schools, and applying the LEA cut scores to all schools, where appropriate.

The methodology used to produce the cut scores considers the LEA level distributions for Status and Change, respectively. This methodology is effective with data that is relatively stable year to year, producing a smooth trend in the data. Trend data show a pattern of gradual change in a certain direction over time—up, down, or sideways. Trend data provides the information to establish cut points that will remain stable over multiple years. For the Academic Indicator, three years of status data (2015, 2016, and 2017) and only two years of Change data (2016 and 2017) are available. While the distributions of Status are similar enough to create a smooth trend in the three years of data, the distributions of Change vary considerably from year to year, making it difficult to predict future change results. Even if the 2018 Change data were to closely match one of the current Change distributions, a smooth trend is unlikely to be established until at least three years of similarly distributed data are available, likely 2019 or later.

When the performance standards were set for the Academic Indicator, only two years of Smarter Balanced Summative Assessment data were available (2015 and 2016), producing one year of Change data. The distributions used to set the performance standards were positively skewed, meaning that more than half of all LEAs had a positive change from 2015 to 2016. In fact, over 80 percent of LEAs experienced a positive change. The 2017 Change distribution is more symmetrical, with 45 percent of LEAs having a positive change from the prior year. Thus, the application of the 2016 cut scores to the 2017 Distance from Met results in far fewer LEAs identified with a Change level of Increased or Increased Significantly in 2017.
Tables 1 to 4 provide the performance levels for LEAs and schools based on the 2016 and 2017 Smarter Balanced Summative Assessment results using the current cut scores and methodology for ELA and mathematics. For details on the cut scores and methodology, see the Addendum to the January 2017 SBE Item, at http://www.cde.ca.gov/be/ag/ag/yr17/documents/jan17item02a1addendum.doc.

Table 1: Statewide LEA Performance—ELA

<table>
<thead>
<tr>
<th>Level</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Red</td>
<td>81</td>
<td>169</td>
</tr>
<tr>
<td>Orange</td>
<td>177</td>
<td>487</td>
</tr>
<tr>
<td>Yellow</td>
<td>751</td>
<td>607</td>
</tr>
<tr>
<td>Green</td>
<td>354</td>
<td>248</td>
</tr>
<tr>
<td>Blue</td>
<td>208</td>
<td>109</td>
</tr>
<tr>
<td>Total LEAs</td>
<td>1,571</td>
<td>1,620</td>
</tr>
</tbody>
</table>

Table 2: Statewide LEA Performance—Mathematics

<table>
<thead>
<tr>
<th>Level</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Red</td>
<td>119</td>
<td>231</td>
</tr>
<tr>
<td>Orange</td>
<td>217</td>
<td>410</td>
</tr>
<tr>
<td>Yellow</td>
<td>723</td>
<td>605</td>
</tr>
<tr>
<td>Green</td>
<td>320</td>
<td>259</td>
</tr>
<tr>
<td>Blue</td>
<td>191</td>
<td>114</td>
</tr>
<tr>
<td>Total LEAs</td>
<td>1,570</td>
<td>1,619</td>
</tr>
</tbody>
</table>

Table 3: Statewide School Performance—ELA

<table>
<thead>
<tr>
<th>Level</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Red</td>
<td>454</td>
<td>933</td>
</tr>
<tr>
<td>Orange</td>
<td>915</td>
<td>2,097</td>
</tr>
<tr>
<td>Yellow</td>
<td>3,320</td>
<td>2,577</td>
</tr>
<tr>
<td>Green</td>
<td>1,420</td>
<td>1,182</td>
</tr>
<tr>
<td>Blue</td>
<td>1,048</td>
<td>473</td>
</tr>
<tr>
<td>Total Schools</td>
<td>7,157</td>
<td>7,262</td>
</tr>
</tbody>
</table>

Table 4: Statewide School Performance—Mathematics

<table>
<thead>
<tr>
<th>Level</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Red</td>
<td>581</td>
<td>1,083</td>
</tr>
<tr>
<td>Orange</td>
<td>1,018</td>
<td>1,612</td>
</tr>
<tr>
<td>Yellow</td>
<td>3,166</td>
<td>2,649</td>
</tr>
<tr>
<td>Green</td>
<td>1,424</td>
<td>1,275</td>
</tr>
<tr>
<td>Blue</td>
<td>966</td>
<td>641</td>
</tr>
<tr>
<td>Total Schools</td>
<td>7,155</td>
<td>7,260</td>
</tr>
</tbody>
</table>

While the distributions for Status have remained constant from 2015 through 2017, the current Change cut scores have produced dramatic downward swings. For example, a school with a 2016 DF3 of +116.3 and 2017 +99.3 would move from a Blue to Yellow performance level. Some 200 highly successful schools (at the “High” or “Very High” Status level) dropped two performance levels in 2017 (from Blue to Yellow), even as the vast majority of their students continued to meet or exceed the state standards. Under the current set of cut scores, high performing schools must sustain continued improvement that may be untenable. In reverse, schools with a very low Status (more than 95 points below the DF3), that improve by just 15 points from the prior year could jump two performance levels (i.e., Red to Yellow). Applying the current cut scores and methodology to the 2017 DF3 would result in 1,117 schools (15 percent) moving up or down at least two performance levels in ELA.
This section shows the current color designations and cut scores for the five-by-five table, along with detailed information on the performance of LEAs and schools, using this methodology.

**Table 5: Current Color Designation and Current Cut Scores—ELA**

<table>
<thead>
<tr>
<th>Level</th>
<th>Declined Significantly by more than 15 points</th>
<th>Declined by 1 to 15 points</th>
<th>Maintained Declined by less than 1 point or Improved by less than 7 points</th>
<th>Increased by 7 to less than 20 points</th>
<th>Increased Significantly by 20 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very High</td>
<td>Yellow</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>45 or more points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
</tr>
<tr>
<td>10 above to less than 45 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medium</td>
<td>Orange</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>5 below to less than 10 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 5 below to 70 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Very Low</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 70 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2016 and 2017 ELA Results Using Current Color Designation and Current Cut Scores

Based on the current cut scores and methodology, the number of LEAs identified in the Red performance level for ELA would double from 81 (5.2 percent) to 169 (10.4 percent), as shown in Table 6.
Table 6

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 1,571)</td>
<td>81 (5.2%)</td>
<td>177 (11.3%)</td>
<td>751 (47.8%)</td>
<td>354 (22.5%)</td>
<td>208 (13.2%)</td>
</tr>
<tr>
<td>2017 (n = 1,620)</td>
<td>169 (10.4%)</td>
<td>487 (30.1%)</td>
<td>607 (37.5%)</td>
<td>248 (15.3%)</td>
<td>109 (6.7%)</td>
</tr>
</tbody>
</table>

Based on the current cut scores and methodology, the number of schools identified in the Red performance level would also double from 455 (6.4 percent) to 933 (12.8 percent), as shown in Table 7.

Table 7

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 7,158)</td>
<td>455 (6.4%)</td>
<td>915 (12.8%)</td>
<td>3,320 (46.4%)</td>
<td>1,420 (19.8%)</td>
<td>1,048 (14.6%)</td>
</tr>
<tr>
<td>2017 (n = 7,262)</td>
<td>933 (12.8%)</td>
<td>2,097 (28.9%)</td>
<td>2,577 (35.5%)</td>
<td>1,182 (16.3%)</td>
<td>473 (6.5%)</td>
</tr>
</tbody>
</table>

1 Based on data posted in the Spring 2017 California School Dashboard.
2 Based on data posted in the Spring 2017 California School Dashboard.
Table 8: Current Color Designation and Current Cut Scores—Mathematics

<table>
<thead>
<tr>
<th>Level</th>
<th>Declined Significantly by more than 10 points</th>
<th>Declined by 1 to 10 points</th>
<th>Maintained Declined by less than 1 point or Improved by less than 5 points</th>
<th>Increased by 5 to less than 15 points</th>
<th>Increased Significantly by 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very High</td>
<td>Yellow</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>35 or more points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
</tr>
<tr>
<td>5 below to less than 35 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medium</td>
<td>Orange</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>More than 5 points below to 25 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 25 points below to 95 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Very Low</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 95 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2016 and 2017 Mathematics Results Using Current Color Designation and Cut Scores

Based on the current cut scores and methodology, the number of LEAs identified in the Red performance level for mathematics would almost double, from 119 (7.6 percent) to 231 (14.3 percent), as shown in Table 9.

Table 9

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(n = 1,570)</td>
<td>119 (7.6%)</td>
<td>217 (13.8%)</td>
<td>723 (46.1%)</td>
<td>320 (20.4%)</td>
<td>191 (12.2%)</td>
</tr>
<tr>
<td>2017</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(n = 1,619)</td>
<td>231 (14.3%)</td>
<td>410 (25.3%)</td>
<td>605 (37.4%)</td>
<td>259 (16.0%)</td>
<td>114 (7.0%)</td>
</tr>
</tbody>
</table>

3 Based on data in the Spring 2017 Dashboard.
Based on the current cut scores and methodology, the number of schools identified in the Red performance level for mathematics would nearly double, from 582 (8.1 percent) to 1,083 (14.9 percent), as shown in Table 10.

Table 10

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 7,156)</td>
<td>582 (8.1%)</td>
<td>1,018 (14.2%)</td>
<td>3,166 (44.2%)</td>
<td>1,424 (19.9%)</td>
<td>966 (13.5%)</td>
</tr>
<tr>
<td>2017 (n = 7,260)</td>
<td>1,083 (14.9%)</td>
<td>1,612 (22.2%)</td>
<td>2,649 (36.5%)</td>
<td>1,275 (17.6%)</td>
<td>641 (8.8%)</td>
</tr>
</tbody>
</table>

Considerations for Continued Use of Current Methodology

As previously indicated, when the performance standards were set for the Academic Indicator, only two years of Smarter Balanced Summative Assessment data were available (2015 and 2016), producing one year of Change data. The California Department of Education (CDE) is concerned that the current methodology—based on only one year of Change data for the Academic Indicator—does not meet the intended purpose of the accountability system, which is to establish goals that are ambitious but also attainable by all schools throughout the state. The system should be stable and minimize volatility from year to year, and control for large swings (two or more) in performance levels (colors). The results produced in Tables 1 through 10 demonstrate that, while the distributions for Status have remained constant from 2015 through 2017, the current Change cut scores have produced dramatic downward swings. At the same time, the system should be fair and understandable so LEAs and schools are comfortable working with the system over time and able to frame their own communications, including the establishment of goals for their Local Control and Accountability Plan (LCAP).

Additionally, since the Academic Indicator uses scale scores rather than percentages, it is by design more susceptible to large swings in performance levels. The error of variance in scale scores is +20 to -20 for every student. Although, this only represents 1/3 of a standard deviation, which is substantially better than most standardized assessments, it contributes to the variability from year to year in the performance levels.

The CDE consulted with the Technical Design Group (TDG) regarding the concerns with the current methodology. The TDG agreed that this should be further reviewed and requested that staff conduct multiple simulations to consider revisions to the methodology and cut scores for the Academic Indicator.

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4 Based on data posted in the Spring 2017 Dashboard.
Possible Options for Revising the Academic Indicator

Although a smooth trend of Change data is not yet available, the large swing in the Change results—based on the current methodology and/or cut scores—are producing volatile results. The TDG explored the following alternative methodologies at their October 25, 2017 meeting:

1. Establish new Change cut scores and apply the results to a new color designation, as proposed by the TDG (i.e., change the arrangement of the colors within the five-by-five grid).

2. Maintain the current cut scores and apply the results to a new color designation.

3. Revise the cut scores and apply the change scores to:
   a. The current color designation
   b. An alternate new color designation, as proposed by the TDG

4. Use a two-year average to calculate Change (i.e., average of the average) and apply results to the:
   - Current color designation adopted by the SBE in September 2016

After reviewing multiple simulation results, and taking into consideration all of issues, the TDG recommended revisions to the Change level cut scores, a revision to the mathematics Status cut scores, and a new color designation. Below are the simulation results based on the TDG’s recommendation (Option 1). The following section provides simulation results for the remaining three options (labeled Options 2 through 4) as reviewed by the TDG.

Option 1: TDG Recommended Methodology—New Change Cut Scores and New Color Designation

Prior to setting any cut scores for the state indicators, the distributions (that includes statewide LEA data) are examined. The TDG followed this process and reviewed the Change distributions and the interaction of the change scores for: a) 2016, b) 2017, and c) the combined 2016 and 2017 change results before recommendations on the Change cut scores. After reviewing the data, the TDG determined it was important that the Change cut scores be more symmetrical to align with the cut scores established for the other indicators. The current cut scores for the Maintained range from less than -1 to less than +7 (ELA) and less than -1 to less than +5 (mathematics)—which is positively skewed (as discussed earlier). In comparison, the proposed revised Change cut score for Maintain ranges from less than negative three (-3) to less than positive three (+3).

(Note: the CDE simulations were based on the Maintained Change cut score being set at less than negative two (-2) to less than positive two (+2). However, the TDG widened this range based on further review of the distributions and the standard deviation of the change scores.)
The TDG also recommended revising the High and Medium Status cut scores for mathematics. The recommended proposed cut scores for High Status is zero points to less than 35 points above DF3 and the proposed Medium cut scores are 25 points below DF3 to less than zero points. These revisions ensures that LEAs and schools cannot receive a high status unless they have a positive DF3. This change addresses issues raised by advocacy groups after the release of the Spring 2017 Dashboard.

In addition, the TDG recommended a revision to the color designation to bring more stability to the indicator. In the current five-by-five colored grid, most of the rows contain three colors, and one row contains four colors. The new recommended color designation limits each row to two colors. Since each row only has two colors, LEAs and schools that maintain their Status will always be one of two colors regardless of their change. As a result, a school with a very high status can only move from Blue to Green if it declines. A school will a very low status can only move from Red to Orange if it increases. Therefore, a school with a Red performance level must obtain a Low Status to move to a Yellow performance level (e.g., move from -85 DF3 to -70 DF3).

The revisions to the color designations results in more Green cells (8) than the current five-by-five colored grid (5). The TDG agreed with having more green cells to ensure that very high performing schools do not receive a Yellow performance level. Members also supported having maintaining the current number of Blue cells, indicating that it should be difficult for schools and LEAs to achieve the Blue performance level.
Table 11: TDG Recommended Methodology—New Change Cut Scores and New Color Designation—ELA

<table>
<thead>
<tr>
<th>Status</th>
<th>Declined Significantly by more than 15 points</th>
<th>Declined By 3 to 15 points</th>
<th>Maintained Declined by less than 3 points or Increased by less than 3 points</th>
<th>Increased by 3 to less than 15 points</th>
<th>Increased Significantly By 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very High</td>
<td>Green*</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>45 or more points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>Green*</td>
<td>Green*</td>
<td>Green</td>
<td>Green*</td>
<td>Blue</td>
</tr>
<tr>
<td>10 points above to less than 45 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medium</td>
<td>Yellow*</td>
<td>Yellow*</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>5 points below to less than 10 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low</td>
<td>Orange*</td>
<td>Orange</td>
<td>Orange*</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 5 points below to 70 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Very Low</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Orange*</td>
</tr>
<tr>
<td>More than 70 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Change in Color Designation. Note: Italicized text indicates a change in cut scores.

Tables 12 and 13 show the impact on schools and LEAs if both the new cut scores and new color designation were applied for ELA. The methodology was applied to the 2016 DF3 and the 2017 DF3. This shows the difference in results between the two years, using the same methodology.
Table 12

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 1,571)</td>
<td>48 (3.1%)</td>
<td>266 (16.9%)</td>
<td>629 (40.0%)</td>
<td>379 (24.1%)</td>
<td>249 (15.9%)</td>
</tr>
<tr>
<td>2017 (n = 1,620)</td>
<td>64 (4.0%)</td>
<td>628 (38.7%)</td>
<td>404 (24.9%)</td>
<td>391 (24.1%)</td>
<td>133 (8.2%)</td>
</tr>
</tbody>
</table>

Table 13

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 7158)</td>
<td>306 (4.3%)</td>
<td>1,377 (19.2%)</td>
<td>2,794 (39.0%)</td>
<td>1,446 (20.2%)</td>
<td>1,235 (17.3%)</td>
</tr>
<tr>
<td>2017 (n = 7,262)</td>
<td>501 (6.9%)</td>
<td>2,660 (36.6%)</td>
<td>1,698 (23.4%)</td>
<td>1,806 (24.9%)</td>
<td>597 (8.2%)</td>
</tr>
</tbody>
</table>

Note: The data for 2016 represent the number of LEAs and schools assigned to each performance level with the application of TDG’s recommended methodology.

As Tables 12 and 13 show, revising both the cut scores and color designation results in an increase in the number of LEAs and schools assigned to the Red and Orange performance levels in 2017 compared to 2016 (64 vs. 48). The number of LEAs in Orange performance level also increases in 2017 when compared to 2016 (628 vs. 266). This divide applies to schools as well, with more schools assigned to the Red performance level in 2017 (501 vs. 306) and significantly more assigned to the Orange performance level (2,660 vs. 1,377).

Conversely, fewer LEAs are in the Blue performance level in 2017 (133 in 2017 vs. 249) and fewer schools are Blue (597 vs. 1,235). The changes from 2016 to 2017 reflect that the 2017 ELA Smarter Balanced Summative Assessments were flat, but the changes are not as dramatic as they would be if the current methodology is maintained.

When comparing the 2017 Option 1 results to the 2016 results based on the current methodology:

- Fewer LEAs will be Red in 2017 compared 2016 (64 vs. 81), but more LEA will be Orange (628 vs. 177).
- More schools will be Red in 2017 compared to 2016 (501 vs. 455), and more schools will be Orange (1,698 vs. 915).
- Fewer LEAs will be Blue in 2017 compared to 2016 (133 vs. 208), but slightly more LEAs will be Green (391 vs. 354).
- Fewer schools will be Blue in 2017 compared to 2016 (597 vs. 1,048), but more schools will be Green (1,806 vs. 1,420).
The new cut scores and color designation will result in an increase of LEAs and schools identified as Red or Orange in 2017 compared to 2016. In addition, fewer LEAs and schools will be Blues. These results reflect that the Smarter Balanced scores were relatively flat in 2017.

This section shows the impact of the TDG recommended methodology on mathematics.

**Table 14: TDG Recommended Methodology— New Change Cut Scores and New Color Designation—Mathematics**

<table>
<thead>
<tr>
<th>Status</th>
<th>Declined Significantly by more than 15 points</th>
<th>Declined By 3 to 15 points</th>
<th>Maintained Declined by less than 3 points or Increased by less than 3 points</th>
<th>Increased by 3 to less than 15 points</th>
<th>Increased Significantly By 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very High</td>
<td>Green*</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>High</td>
<td>Green*</td>
<td>Green*</td>
<td>Green</td>
<td>Green*</td>
<td>Blue</td>
</tr>
<tr>
<td>Medium</td>
<td>Yellow*</td>
<td>Yellow*</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>Low</td>
<td>Orange*</td>
<td>Orange</td>
<td>Orange*</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>Very Low</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange*</td>
<td>Orange</td>
</tr>
</tbody>
</table>

*Change in Color Designation. Note: Italicize text indicates a change in cut scores.

Tables 15 and 16 show the impact on schools and LEAs if both the new cut scores and new color designation were applied for mathematics. Again, the methodology was applied to the 2016 DF3 and the 2017 DF3. This shows the difference in results between the two years, using the same methodology.
Table 15

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 1,570)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>47</td>
<td>381</td>
<td>579</td>
<td>374</td>
<td>189</td>
</tr>
<tr>
<td></td>
<td>(3.0%)</td>
<td>(24.3%)</td>
<td>(36.9%)</td>
<td>(23.8%)</td>
<td>(12.0%)</td>
</tr>
<tr>
<td>2017 (n = 1,619)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>89</td>
<td>600</td>
<td>456</td>
<td>349</td>
<td>125</td>
</tr>
<tr>
<td></td>
<td>(5.5%)</td>
<td>(37.1%)</td>
<td>(28.2%)</td>
<td>(21.6%)</td>
<td>(7.7%)</td>
</tr>
</tbody>
</table>

Table 16

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 7,156)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>276</td>
<td>1,746</td>
<td>2,551</td>
<td>1,639</td>
<td>944</td>
</tr>
<tr>
<td></td>
<td>(3.9%)</td>
<td>(24.4%)</td>
<td>(35.7%)</td>
<td>(22.9%)</td>
<td>(13.2%)</td>
</tr>
<tr>
<td>2017 (n = 7,260)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>409</td>
<td>2,419</td>
<td>2,050</td>
<td>1,702</td>
<td>680</td>
</tr>
<tr>
<td></td>
<td>(5.6%)</td>
<td>(33.3%)</td>
<td>(28.2%)</td>
<td>(23.4%)</td>
<td>(9.4%)</td>
</tr>
</tbody>
</table>

Similar to the impact noted in the ELA section above, Tables 15 and 16 show that revising both the cut scores for mathematics and color designation results in an increase in the number of LEAs and schools assigned to the Red and Orange performance levels in 2017 compared to 2016. The number of LEAs assigned to Red is 89 vs. 47 and the number assigned to Orange is 600 vs. 381. This divide also occurs with schools in Red (409 vs. 276) and with schools in Orange (2,419 vs. 1,746).

Conversely, fewer LEAs would be Blue (125 vs. 189). Fewer schools would also be Blue (680 vs. 944).

When comparing the 2017 Option 1 results to the 2016 results based on the current methodology:

- Fewer LEAs will be Red in 2017 compared 2016 (89 vs. 119), but more LEA will be Orange (600 vs. 217).
- Fewer schools will be Red in 2017 compared to 2016 (409 vs. 582), but more schools will be Orange (2,419 vs. 1,018)
- Fewer LEAs will be Blue in 2017 compared to 2016 (125 vs. 191) and fewer LEAs will be Green (349 vs. 320).
- Fewer schools will be Blue in 2017 compared to 2016 (680 vs. 966). However, more schools will be Green (1,702 vs. 1,424).

Again, the new cut scores and color designation will results in an increase of LEAs and schools identified as Red or Orange in 2017 compared to 2016, and fewer LEAs and schools being Blue, which reflects that the Smarter Balanced scores were relatively flat in 2017.
This section provides the simulation results reviewed by the TDG for Options 2 through 4. Each simulation displays the methodology results for the 2016 and 2017 Smarter Balanced Summative Assessment results, providing a comparison between the two years of data and a more realistic view of the impact that the proposed methodologies would have for LEAs and schools in California.

**Option 2: New Color Designation and Current Cut Scores**

Although the TDG recommended a new color designation, which limits each row to two colors in order to provide more stability over time, they determined that the Very High Status and Declined Change level should remain Green, rather than changing it to Blue (as shown below). In addition, they demined that the Change cut scores should also be revised.

The revisions to the color designations below results in more Green cells (7) than the current five-by-five colored grid (5). The TDG agreed with having more Green cells to ensure that very high performing schools do not receive a Yellow performance level. In addition, the final decision was not to increase the number of Blue cells.

**Table 17: New Color Designation and Current Cut Scores—ELA**

<table>
<thead>
<tr>
<th>Status</th>
<th>Declined Significantly by more than 15 points</th>
<th>Declined by 1 to 15 points</th>
<th>Maintained Declined by less than 1 point or Improved by less than 7 points</th>
<th>Increased by 7 to less than 20 points</th>
<th>Increased Significantly by 20 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very High</td>
<td>Green*</td>
<td>Blue*</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>45 or more points</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>Green*</td>
<td>Green*</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
</tr>
<tr>
<td>10 above to less than 45 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medium</td>
<td>Yellow*</td>
<td>Yellow*</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>5 below to less than 10 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low</td>
<td>Orange*</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 5 below to 70 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Very Low</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Orange*</td>
</tr>
<tr>
<td>More than 70 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Change in color designation.

Tables 18 and 19 show the impact for ELA that the new color designation would have on LEAs and schools.
Table 18

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 1,571)</td>
<td>59 (3.8%)</td>
<td>174 (11.1%)</td>
<td>746 (47.5%)</td>
<td>375 (23.9%)</td>
<td>217 (13.8%)</td>
</tr>
<tr>
<td>2017 (n = 1,620)</td>
<td>74 (4.6%)</td>
<td>481 (29.7%)</td>
<td>569 (35.1%)</td>
<td>323 (19.9%)</td>
<td>173 (10.7%)</td>
</tr>
</tbody>
</table>

Table 19

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 7,158)</td>
<td>381 (5.3%)</td>
<td>915 (12.8%)</td>
<td>3,276 (45.8%)</td>
<td>1,474 (20.6%)</td>
<td>1,112 (15.5%)</td>
</tr>
<tr>
<td>2017 (n = 7,262)</td>
<td>553 (7.6%)</td>
<td>2,069 (28.5%)</td>
<td>2,338 (32.2%)</td>
<td>1,460 (19.6%)</td>
<td>842 (12.1%)</td>
</tr>
</tbody>
</table>

As Tables 18 and 19 show, the application of the new color designation to 2016 and 2017 ELA data still results in more LEAs and schools assigned to the Red and Orange performance levels in 2017. This reflects the drop in scale scores on the 2017 ELA Smarter Balanced Summative Assessments. In addition, fewer LEAs and schools are identified in the Blue and Green performance levels in 2017.

The table below shows the impact of the new color designation for mathematics.
Table 20: New Color Designation and Current Cut Scores—Mathematics
Change

<table>
<thead>
<tr>
<th>Status</th>
<th>Declined Significantly by more than 10 points</th>
<th>Declined by 1 to 10 points</th>
<th>Maintained Declined by less than 1 point or Improved by less than 5 points</th>
<th>Increased by 5 to less than 15 points</th>
<th>Increased Significantly by 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very High</td>
<td>Green*</td>
<td>Blue*</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>35 or more points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>Green*</td>
<td>Green*</td>
<td>Green</td>
<td>Blue</td>
<td>Green</td>
</tr>
<tr>
<td>5 below to less than 35 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medium</td>
<td>Yellow*</td>
<td>Yellow*</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>More than 5 points below to</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low</td>
<td>Orange*</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 25 points below to</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>95 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Very Low</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Orange*</td>
</tr>
<tr>
<td>More than 95 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*New color designation

Tables 21 and 22 show the impact for mathematics on schools and LEAs if the new cut scores and current new color designation were applied.
Table 21

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 1,570)</td>
<td>52  (3.3%)</td>
<td>242 (15.4%)</td>
<td>723 (46.1%)</td>
<td>357 (22.7%)</td>
<td>196 (12.5%)</td>
</tr>
<tr>
<td>2017 (n = 1,619)</td>
<td>93  (5.7%)</td>
<td>434 (26.8%)</td>
<td>609 (37.6%)</td>
<td>336 (20.8%)</td>
<td>147 (9.1%)</td>
</tr>
</tbody>
</table>

Table 22

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 7,156)</td>
<td>305 (4.3%)</td>
<td>1,140 (15.9%)</td>
<td>3,160 (44.2%)</td>
<td>1,520 (21.2%)</td>
<td>1,031 (14.4%)</td>
</tr>
<tr>
<td>2017 (n = 7,260)</td>
<td>432 (6.0%)</td>
<td>1,849 (25.5%)</td>
<td>2,551 (35.1%)</td>
<td>1,589 (21.9%)</td>
<td>839 (11.6%)</td>
</tr>
</tbody>
</table>

As Tables 21 and 22 show, the application of the new color designation to 2016 and 2017 mathematics data results in more LEAs and schools assigned to the Red and Orange performance levels in 2017 compared to 2016. In addition, fewer LEAs and schools are identified in the Blue performance levels in 2017.

The following section shows the impact applying new cut scores to the current color designation.

**Option 3: New Cut Scores**

For all of the other state indicators, the Change cut scores are symmetrical. For example, the range for the “Maintained” Change level for the Graduation Rate Indicator is -1 to +1. However, since the 2016 results for the Academic Indicator were positively skewed, the cut scores were also positively skewed. As a result, the Change cut scores for the Academic Indicator are asymmetrical. For example, the range for the “Maintained” Change level is -1 to +7 for ELA, and -1 to -5 for mathematics. Since the 2017 Change results have a normal distribution, revising the cut scores based on 2017 data would align the cut scores to those set for the other state indicators. In addition, the Status cut scores for the High and Maintained Status level in mathematics were revised to ensure that LEAs and schools could not receive a High Status if they had a negative DF3.

The following tables reflects the simulated results using two different color designations.

a. Current color designation

b. Alternate color designation (proposed by TDG)
Option 3(a): New Cut Scores and Current Color Designation

Table 23: New Cut Scores and Current Color Designation—ELA

<table>
<thead>
<tr>
<th>Status</th>
<th>Declined Significantly by more than 15 points</th>
<th>Declined By 2 to 15 points</th>
<th>Maintained Declined by less than 2 points or Increased by less than 2 points</th>
<th>Increased by 2 to less than 15 points</th>
<th>Increased Significantly By 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very High</td>
<td>Yellow</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>45 or more points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
</tr>
<tr>
<td>10 points above to less than 45 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medium</td>
<td>Orange</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>5 points below to less than 10 points above</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 5 points below 70 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Very Low</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
</tr>
<tr>
<td>More than 70 points below</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Tables 24 and 25 show the impact for ELA that the new cut scores would have on LEAs and schools.

Table 24

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(n = 1,571)</td>
<td>65</td>
<td>172</td>
<td>725</td>
<td>363</td>
<td>246</td>
</tr>
<tr>
<td></td>
<td>(4.1%)</td>
<td>(11.0%)</td>
<td>(46.2%)</td>
<td>(23.1%)</td>
<td>(15.7%)</td>
</tr>
<tr>
<td>2017</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(n = 1,620)</td>
<td>155</td>
<td>453</td>
<td>599</td>
<td>285</td>
<td>128</td>
</tr>
<tr>
<td></td>
<td>(9.6%)</td>
<td>(28.0%)</td>
<td>(37.0%)</td>
<td>(17.6%)</td>
<td>(7.9%)</td>
</tr>
</tbody>
</table>

Table 25

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(n = 7,158)</td>
<td>354</td>
<td>860</td>
<td>3,344</td>
<td>1,378</td>
<td>1,222</td>
</tr>
<tr>
<td></td>
<td>(5.0%)</td>
<td>(12.0%)</td>
<td>(46.7%)</td>
<td>(19.3%)</td>
<td>(17.1%)</td>
</tr>
<tr>
<td>2017</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(n = 7,262)</td>
<td>871</td>
<td>1,975</td>
<td>2,580</td>
<td>1,279</td>
<td>557</td>
</tr>
<tr>
<td></td>
<td>(12.0%)</td>
<td>(27.2%)</td>
<td>(35.5%)</td>
<td>(17.6%)</td>
<td>(7.7%)</td>
</tr>
</tbody>
</table>
As Tables 24 and 25 show, revising only the cut scores while using the current color designation results in a significant increase in the number of LEAs and schools assigned to the Red and Orange performance levels in 2017. When comparing the 2017 results to the simulated results for 2016, well over twice as many LEAs would be assigned to the Red performance level (155 compared to 65) and the Orange performance level (453 compared to 172), as shown in the tables above. This divide applies to schools as well, with more than double the number assigned to the Red performance level (871 in 2017 as compared to 354 in 2016) and the Orange performance level (1,975 in 2017 compared to 860 in 2016). Please note that the data for 2016 represent the number of LEAs and schools that would have been assigned to each performance level had the new cut scores been applied. Therefore, changing the cut scores alone, may not be sufficient.

The next section shows the impact of the new cut scores for mathematics.
Table 26: New Cut Scores and Current Color Designation—Mathematics

<table>
<thead>
<tr>
<th>Levels</th>
<th>Declined Significantly by more than 15 points</th>
<th>Declined By 2 to 15 points</th>
<th>Maintained Declined by less than 2 points or Increased by less than 2 points</th>
<th>Increased by 2 to less than 15 points</th>
<th>Increased Significantly By 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very High</td>
<td>Yellow</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>High</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
</tr>
<tr>
<td>Medium</td>
<td>Orange</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>Low</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>Very Low</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
</tr>
</tbody>
</table>

Tables 27 and 28 show the impact for mathematics that the new cut scores would have on LEAs and schools.

Table 27

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 1,570)</td>
<td>82</td>
<td>226</td>
<td>719</td>
<td>355</td>
<td>188</td>
</tr>
<tr>
<td>(5.2%)</td>
<td>(14.4%)</td>
<td>(45.8%)</td>
<td>(22.6%)</td>
<td>(12.0%)</td>
<td></td>
</tr>
<tr>
<td>2017 (n = 1,619)</td>
<td>168</td>
<td>428</td>
<td>604</td>
<td>305</td>
<td>114</td>
</tr>
<tr>
<td>(10.4%)</td>
<td>(26.4%)</td>
<td>(37.3%)</td>
<td>(18.8%)</td>
<td>(7.0%)</td>
<td></td>
</tr>
</tbody>
</table>

Table 28

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 7,156)</td>
<td>380</td>
<td>1,084</td>
<td>3,185</td>
<td>1,573</td>
<td>934</td>
</tr>
<tr>
<td>(5.5%)</td>
<td>(15.2%)</td>
<td>(44.5%)</td>
<td>(22.0%)</td>
<td>(13.1%)</td>
<td></td>
</tr>
<tr>
<td>2017 (n = 7,260)</td>
<td>705</td>
<td>1,808</td>
<td>2,650</td>
<td>1,451</td>
<td>646</td>
</tr>
<tr>
<td>(9.7%)</td>
<td>(24.9%)</td>
<td>(36.5%)</td>
<td>(20.0%)</td>
<td>(8.9%)</td>
<td></td>
</tr>
</tbody>
</table>

As Tables 27 and 28 show, the application of the new cut scores to 2016 and 2017 mathematics data are similar to those found for ELA. Revising only the cut scores
results in a significant increase in the number of LEAs and schools assigned to the Red and Orange performance levels in 2017. In fact, when comparing the 2017 results to the 2016 results, twice as many LEAs and almost twice as many schools are assigned to the Red performance level.

Neither model in isolation—the application of new cut scores only (Option 3a) or a new color designation (Option 2)—resolves the issue of Change distribution swings.

**Option 3(b): New Cut Scores and Alternate New Color Designation**

In this option, both the new cut scores and an alternate new color designation are applied. (Note: the revised cut scores are the same for both ELA and mathematics, so only the Status scores differ.)

**Table 29: New Cut Scores and Alternate New Color Designation—ELA**

<table>
<thead>
<tr>
<th>Level</th>
<th>Change</th>
<th>Declined Significantly by more than 15 points</th>
<th>Declined By 2 to 15 points</th>
<th>Maintained Declined by less than 2 points or Increased by less than 2 points</th>
<th>Increased by 2 to less than 15 points</th>
<th>Increased Significantly By 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very High (45 or more points above)</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
<td></td>
</tr>
<tr>
<td>High (10 points above to less than 45 points above)</td>
<td>Green</td>
<td>Green</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
<td></td>
</tr>
<tr>
<td>Medium (5 points below to less than 10 points above)</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
<td></td>
</tr>
<tr>
<td>Low (More than 5 points below to 70 points below)</td>
<td>Orange</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
<td></td>
</tr>
<tr>
<td>Very Low (More than 70 points below)</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Orange</td>
<td></td>
</tr>
</tbody>
</table>

Tables 30 and 31 show the impact on schools and LEAs if both the new cut scores and first new color designation were applied together for ELA.
Table 30

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>43</td>
<td>173</td>
<td>720</td>
<td>381</td>
<td>254</td>
</tr>
<tr>
<td>(n = 1,571)</td>
<td>(2.7%)</td>
<td>(11.0%)</td>
<td>(45.8%)</td>
<td>(24.3%)</td>
<td>(16.2%)</td>
</tr>
<tr>
<td>2017</td>
<td>60</td>
<td>460</td>
<td>567</td>
<td>349</td>
<td>184</td>
</tr>
<tr>
<td>(n = 1,620)</td>
<td>(3.7%)</td>
<td>(28.4%)</td>
<td>(35.0%)</td>
<td>(21.5%)</td>
<td>(11.4%)</td>
</tr>
</tbody>
</table>

Table 31

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>280</td>
<td>898</td>
<td>3,282</td>
<td>1,420</td>
<td>1,278</td>
</tr>
<tr>
<td>(n = 7158)</td>
<td>(3.9%)</td>
<td>(12.6%)</td>
<td>(45.9%)</td>
<td>(19.8%)</td>
<td>(17.9%)</td>
</tr>
<tr>
<td>2017</td>
<td>491</td>
<td>1,984</td>
<td>2,363</td>
<td>1,542</td>
<td>882</td>
</tr>
<tr>
<td>(n = 7,262)</td>
<td>(6.8%)</td>
<td>(27.3%)</td>
<td>(32.5%)</td>
<td>(21.2%)</td>
<td>(12.2%)</td>
</tr>
</tbody>
</table>

As Tables 30 and 31 show, the number of LEAs and schools identified as Red increases slightly between 2016 and 2017, but the number identified as Orange more than doubles. Revising both the color designation along with the cut scores reduces the number of schools moving down two or more performance levels (Blue to Yellow). However, a significant number of LEAs and schools moved down one performance level (Yellow to Orange), which is consistent with the lower 2017 DF3 results.

The next section shows the impact of the new cut scores and alternate color designation for mathematics.
Table 32: New Cut Scores and Alternate New Color Designation—Mathematics

<table>
<thead>
<tr>
<th>Status</th>
<th>Level</th>
<th>Declined Significantly by more than 15 points</th>
<th>Declined By 2 to 15 points</th>
<th>Maintained Declined by less than 2 points or Increased by less than 2 points</th>
<th>Increased by 2 to less than 15 points</th>
<th>Increased Significantly By 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very High 35 or more points above</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>High 1 point to less than 35 points above</td>
<td>Green</td>
<td>Green</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>Medium 0 to 25 points below</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>Low More than 25 points below to 95 points below</td>
<td>Orange</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>Very Low More than 95 points below</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Orange</td>
<td>Orange</td>
</tr>
</tbody>
</table>

Tables 33 and 34 show the impact on schools and LEAs if both the new cut scores and alternate new color designation were applied together for mathematics.

Table 33

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 1,570)</td>
<td>46 (2.9%)</td>
<td>225 (14.3%)</td>
<td>728 (46.4%)</td>
<td>380 (24.2%)</td>
<td>191 (12.2%)</td>
</tr>
<tr>
<td>2017 (n = 1,619)</td>
<td>88 (5.4%)</td>
<td>405 (25.0%)</td>
<td>641 (39.6%)</td>
<td>335 (20.7%)</td>
<td>150 (9.3%)</td>
</tr>
</tbody>
</table>

Table 34

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 (n = 7,156)</td>
<td>258 (3.6%)</td>
<td>1,078 (15.1%)</td>
<td>3,205 (44.8%)</td>
<td>1,623 (22.8%)</td>
<td>983 (13.7%)</td>
</tr>
<tr>
<td>2017 (n = 7,260)</td>
<td>398 (5.5%)</td>
<td>1,735 (23.9%)</td>
<td>2,696 (37.1%)</td>
<td>1,582 (21.8%)</td>
<td>849 (11.7%)</td>
</tr>
</tbody>
</table>

As Tables 33 and 34 show, the number of LEAs identified as Red for mathematics in 2017 is slightly higher than the number of LEAs identified as Red for ELA. Fewer schools were identified in the Red performance level for mathematics than ELA. However, revising both the color designation along with the cut scores reduces the...
number of schools moving down two or more performance levels (e.g., Blue to Yellow or Green to Red) as compared to other methodologies.

Next, we examine the impact of Option 4: Using a two-year average to calculate Change.

**Option 4: Two-Year Average (Current Cut Scores and Current Color Designation)**

**Table 35: Two-Year Average Using the Current Color Designation and Current Cut Scores—ELA**

<table>
<thead>
<tr>
<th>Change</th>
<th>Very High 45 or more points above</th>
<th>High 10 above to less than 45 points above</th>
<th>Medium 5 below to less than 10 points above</th>
<th>Low More than 5 below to 70 points below</th>
<th>Very Low More than 70 points below</th>
</tr>
</thead>
<tbody>
<tr>
<td>Declined Significantly by more than 15 points</td>
<td>Yellow</td>
<td>Orange</td>
<td>Orange</td>
<td>Red</td>
<td>Red</td>
</tr>
<tr>
<td>Declined by 1 to 15 points</td>
<td>Green</td>
<td>Yellow</td>
<td>Orange</td>
<td>Orange</td>
<td>Red</td>
</tr>
<tr>
<td>Maintained Declined by less than 1 point or Improved by less than 7 points</td>
<td>Blue</td>
<td>Green</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Orange</td>
</tr>
<tr>
<td>Increased by 7 to less than 20 points</td>
<td>Blue</td>
<td>Green</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Orange</td>
</tr>
<tr>
<td>Increased Significantly by 20 points or more</td>
<td>Blue</td>
<td>Blue</td>
<td>Green</td>
<td>Green</td>
<td>Yellow</td>
</tr>
</tbody>
</table>

Tables 36 and 37 show the impact of the new methodology for LEAs and schools. Note that in order to calculate the two-year Change average for 2017, three years of data are used (i.e., 2015, 2016, and 2017). Three years of data would be needed to calculate the two-year Change average for 2016 (i.e., 2014, 2015, and 2016). However, since the 2014 Smarter Balanced Summative Assessments was a field test, no results were produced. For this reason, no comparision data for 2016 is provided in the tables below.

**Table 36**

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>96</td>
<td>273</td>
<td>788</td>
<td>315</td>
<td>148</td>
</tr>
<tr>
<td>(n = 1,620)</td>
<td>(5.9%)</td>
<td>(16.9%)</td>
<td>(48.6%)</td>
<td>(19.4%)</td>
<td>(9.1%)</td>
</tr>
</tbody>
</table>
Using a two-year average for Change resolves the temporary problem exhibited by the negative Change scores in 2017, but brings about its own series of issues. Using an average score for LEAs and schools will not reflect the true year-to-year growth/decline from the prior year, and instead distorts the results by meeting in the middle. This may hinder the LCAP process by not allowing LEAs to see what is really happening each year at their schools. It will also reflect artificial improvement or decline in years when good/bad scores drop out of the averaging calculation.

The next section shows the impact of the two-year average for mathematics.
Table 38: Current Color Designation and Current Cut Scores—Mathematics

<table>
<thead>
<tr>
<th>Status</th>
<th>Declined Significantly by more than 10 points</th>
<th>Declined by 1 to 10 points</th>
<th>Maintained Declined by less than 1 point or Improved by less than 5 points</th>
<th>Increased by 5 to less than 15 points</th>
<th>Increased Significantly by 15 points or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very High 35 or more points above</td>
<td>Yellow</td>
<td>Green</td>
<td>Blue</td>
<td>Blue</td>
<td>Blue</td>
</tr>
<tr>
<td>High 5 below to less than 35 points above</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
<td>Blue</td>
</tr>
<tr>
<td>Medium More than 5 points below to 25 points below</td>
<td>Orange</td>
<td>Orange</td>
<td>Yellow</td>
<td>Green</td>
<td>Green</td>
</tr>
<tr>
<td>Low More than 25 points below to 95 points below</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Yellow</td>
</tr>
<tr>
<td>Very Low More than 95 points below</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Orange</td>
<td>Yellow</td>
</tr>
</tbody>
</table>

Tables 39 and 40 show the impact of the two-year average on schools and LEAs.

Table 39

<table>
<thead>
<tr>
<th>LEA Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017 (n = 1,619)</td>
<td>134 (8.3%)</td>
<td>287 (17.8%)</td>
<td>733 (45.3%)</td>
<td>320 (19.8%)</td>
<td>145 (9.0%)</td>
</tr>
</tbody>
</table>

Table 40

<table>
<thead>
<tr>
<th>School Results</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017 (n = 7,260)</td>
<td>585 (8.1%)</td>
<td>1,231 (17.0%)</td>
<td>3,066 (42.2%)</td>
<td>1,601 (22.1%)</td>
<td>777 (10.7%)</td>
</tr>
</tbody>
</table>

Again, the two-year average resolves the most immediate issues confronting LEAs and schools that had performance levels dramatically drop in 2017 using the current methodology and cut scores. However, the caveats raised earlier continue to apply. (Please see discussion following Table 37.)
The Academic Indicator, by definition, is an average of the DF3 at the LEA, school, and student group levels. Combining more than one year of data creates an average of an average, which is difficult to interpret and communicate, especially when discussing progress and setting goals for the annual LCAP. In addition, it masks the difference in results from one year to the next and it is not the best statistical method for use in an accountability system. The TDG also agrees that using “an average of an average” for the Academic Indicator is not a technically viable option.

In the next section, a side-by-side comparison of all options is provided.
Summary Comparison of All Options for Local Educational Agencies

Tables 41 through 46 below summarize the results for the current methodology, as well the TDG recommended methodology and Options 2, 3, and 4.

### Table 41: Current Color Designation and Current Cut Scores

<table>
<thead>
<tr>
<th>Year</th>
<th>Content Area</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>ELA</td>
<td>81</td>
<td>177</td>
<td>751</td>
<td>354</td>
<td>208</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(5.2%)</td>
<td>(11.3%)</td>
<td>(47.8%)</td>
<td>(22.5%)</td>
<td>(13.2%)</td>
</tr>
<tr>
<td>2017</td>
<td>ELA</td>
<td>169</td>
<td>487</td>
<td>607</td>
<td>248</td>
<td>109</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(10.4%)</td>
<td>(30.1%)</td>
<td>(37.5%)</td>
<td>(15.3%)</td>
<td>(6.7%)</td>
</tr>
<tr>
<td>2016</td>
<td>Math</td>
<td>119</td>
<td>217</td>
<td>723</td>
<td>320</td>
<td>191</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(7.6%)</td>
<td>(13.8%)</td>
<td>(46.1%)</td>
<td>(20.4%)</td>
<td>(12.2%)</td>
</tr>
<tr>
<td>2017</td>
<td>Math</td>
<td>231</td>
<td>410</td>
<td>605</td>
<td>259</td>
<td>114</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(14.3%)</td>
<td>(25.3%)</td>
<td>(37.4%)</td>
<td>(16.0%)</td>
<td>(7.0%)</td>
</tr>
</tbody>
</table>

### Table 42: Option 1—TDG Recommended Methodology—New Cut Scores and New Color Designation

<table>
<thead>
<tr>
<th>Year</th>
<th>Content Area</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>ELA</td>
<td>48</td>
<td>266</td>
<td>629</td>
<td>379</td>
<td>249</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(3.1%)</td>
<td>(16.9%)</td>
<td>(40.0%)</td>
<td>(24.1%)</td>
<td>(15.9%)</td>
</tr>
<tr>
<td>2017</td>
<td>ELA</td>
<td>64</td>
<td>628</td>
<td>404</td>
<td>391</td>
<td>133</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(4.0%)</td>
<td>(38.7%)</td>
<td>(24.9%)</td>
<td>(24.1%)</td>
<td>(8.2%)</td>
</tr>
<tr>
<td>2016</td>
<td>Math</td>
<td>47</td>
<td>381</td>
<td>579</td>
<td>374</td>
<td>189</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(3.0%)</td>
<td>(24.3%)</td>
<td>(36.9%)</td>
<td>(23.8%)</td>
<td>(12.0%)</td>
</tr>
<tr>
<td>2017</td>
<td>Math</td>
<td>89</td>
<td>600</td>
<td>456</td>
<td>349</td>
<td>125</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(5.5%)</td>
<td>(37.1%)</td>
<td>(28.2%)</td>
<td>(21.6%)</td>
<td>(7.7%)</td>
</tr>
</tbody>
</table>

### Table 43: Option 2—New Color Designation and Current Cut Scores

<table>
<thead>
<tr>
<th>Year</th>
<th>Content Area</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>ELA</td>
<td>59</td>
<td>174</td>
<td>746</td>
<td>375</td>
<td>217</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(3.8%)</td>
<td>(11.1%)</td>
<td>(47.5%)</td>
<td>(23.9%)</td>
<td>(13.8%)</td>
</tr>
<tr>
<td>2017</td>
<td>ELA</td>
<td>74</td>
<td>481</td>
<td>569</td>
<td>323</td>
<td>173</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(4.6%)</td>
<td>(29.7%)</td>
<td>(35.1%)</td>
<td>(19.9%)</td>
<td>(10.7%)</td>
</tr>
<tr>
<td>2016</td>
<td>Math</td>
<td>52</td>
<td>242</td>
<td>723</td>
<td>357</td>
<td>196</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(3.3%)</td>
<td>(15.4%)</td>
<td>(46.1%)</td>
<td>(22.7%)</td>
<td>(12.5%)</td>
</tr>
<tr>
<td>2017</td>
<td>Math</td>
<td>93</td>
<td>434</td>
<td>609</td>
<td>336</td>
<td>147</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(5.7%)</td>
<td>(28.8%)</td>
<td>(37.6%)</td>
<td>(20.8%)</td>
<td>(9.1%)</td>
</tr>
</tbody>
</table>
### Table 44: Option 3a—New Cut Scores and Current Color Designation

<table>
<thead>
<tr>
<th>Year</th>
<th>Content Area</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>65</td>
<td>172</td>
<td>725</td>
<td>363</td>
<td>246</td>
</tr>
<tr>
<td>2016</td>
<td>ELA</td>
<td>(4.1%)</td>
<td>(11.0%)</td>
<td>(46.2%)</td>
<td>(23.1%)</td>
<td>(15.7%)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>155</td>
<td>453</td>
<td>599</td>
<td>285</td>
<td>128</td>
</tr>
<tr>
<td>2017</td>
<td>ELA</td>
<td>(9.6%)</td>
<td>(28.0%)</td>
<td>(37.0%)</td>
<td>(17.6%)</td>
<td>(7.9%)</td>
</tr>
<tr>
<td></td>
<td>Math</td>
<td>82</td>
<td>226</td>
<td>719</td>
<td>355</td>
<td>188</td>
</tr>
<tr>
<td>2016</td>
<td></td>
<td>(5.2%)</td>
<td>(14.4%)</td>
<td>(45.8%)</td>
<td>(22.6%)</td>
<td>(12.0%)</td>
</tr>
<tr>
<td></td>
<td>Math</td>
<td>168</td>
<td>428</td>
<td>604</td>
<td>305</td>
<td>114</td>
</tr>
<tr>
<td>2017</td>
<td></td>
<td>(10.4%)</td>
<td>(26.4%)</td>
<td>(37.3%)</td>
<td>(18.8%)</td>
<td>(7.0%)</td>
</tr>
</tbody>
</table>

### Table 45: Option 3b—New Cut Scores and Alternate New Color Designation

<table>
<thead>
<tr>
<th>Year</th>
<th>Content Area</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>43</td>
<td>173</td>
<td>720</td>
<td>381</td>
<td>254</td>
</tr>
<tr>
<td>2016</td>
<td>ELA</td>
<td>(2.7%)</td>
<td>(11.0%)</td>
<td>(45.8%)</td>
<td>(24.3%)</td>
<td>(16.2%)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>60</td>
<td>460</td>
<td>567</td>
<td>349</td>
<td>184</td>
</tr>
<tr>
<td>2017</td>
<td>ELA</td>
<td>(3.7%)</td>
<td>(28.4%)</td>
<td>(35.0%)</td>
<td>(21.5%)</td>
<td>(11.4%)</td>
</tr>
<tr>
<td></td>
<td>Math</td>
<td>46</td>
<td>225</td>
<td>728</td>
<td>380</td>
<td>191</td>
</tr>
<tr>
<td>2016</td>
<td></td>
<td>(2.9%)</td>
<td>(14.3%)</td>
<td>(46.4%)</td>
<td>(24.2%)</td>
<td>(12.2%)</td>
</tr>
<tr>
<td></td>
<td>Math</td>
<td>88</td>
<td>405</td>
<td>641</td>
<td>335</td>
<td>150</td>
</tr>
<tr>
<td>2017</td>
<td></td>
<td>(5.4%)</td>
<td>(25.0%)</td>
<td>(39.6%)</td>
<td>(20.7%)</td>
<td>(9.3%)</td>
</tr>
</tbody>
</table>

### Table 46: Option 4—Two-Year Average (Current Color Designation and Current Cut Scores)

<table>
<thead>
<tr>
<th>Year</th>
<th>Content Area</th>
<th>Red</th>
<th>Orange</th>
<th>Yellow</th>
<th>Green</th>
<th>Blue</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>96</td>
<td>273</td>
<td>788</td>
<td>315</td>
<td>148</td>
</tr>
<tr>
<td>2017</td>
<td>ELA</td>
<td>(5.9%)</td>
<td>(16.9%)</td>
<td>(48.6%)</td>
<td>(19.4%)</td>
<td>(9.1%)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>134</td>
<td>287</td>
<td>733</td>
<td>320</td>
<td>145</td>
</tr>
<tr>
<td>2017</td>
<td>Math</td>
<td>(8.3%)</td>
<td>(17.8%)</td>
<td>(45.3%)</td>
<td>(19.8%)</td>
<td>(9.0%)</td>
</tr>
</tbody>
</table>
Update on the Chronic Absenteeism Indicator

Background

In September 2016, the State Board of Education (SBE) adopted Chronic Absenteeism as a state indicator in the California School Dashboard (Dashboard). Chronic Absenteeism is a metric required under the Local Control Funding Formula (LCFF) as part of Priority 5: Pupil Engagement. In addition, under the Every Student Succeeds Act (ESSA), states are required to collect data to identify students who are chronically absent and report chronic absenteeism rates for schools in the State Report Card (California Education Code (EC) Section 1111[h][1][C][viii]).

In accordance with the Local Control and Accountability Plan Template (Appendix A), Chronic Absenteeism is defined as being absent ten percent or more of the schooldays in the school year. The Chronic Absenteeism rate is calculated by dividing the number of students who are chronically absent by an unduplicated count of the number of students enrolled during the school year.

To facilitate the collection of these data elements, the California Department of Education (CDE) developed and implemented a new data collection in the California Longitudinal and Pupil Achievement Data System (CALPADS) effective in the 2016–17 school year. This collection occurred between May 15 and August 25, 2017. Accordingly, this data was not available for inclusion in the Spring 2017 Dashboard release.

To support local educational agencies (LEAs) with this new data collection, the CALPADS team offered special training courses in April and May 2017. The courses provided participants with a review of the required data elements, validation rules, reports, and certification components in CALPADS. Staff from approximately 828 LEAs participated in these trainings.

To assist LEAs in preparing for this new data collection cycle, the CDE emphasized during the implementation process that the absenteeism data collected through CALPADS is a separate collection from the average daily attendance (ADA) data submission. The purpose of the ADA collection is for funding the LCFF or other similarly based programs. However, to the extent possible, the CDE utilized the same definitions so that LEAs could use the data that they already collected through the ADA submission process for their student-level submission to CALPADS.

In addition, since this data collection occurs through CALPADS on an annual basis, the CDE also emphasized to LEAs that it: (1) is not intended to be an early warning system, and (2) will be useful to identify schools/LEAs that may require assistance in addressing attendance problems.
Data Elements Collected

The information collected in CALPADS for each enrolled student includes the following aggregate counts for the year:

- The number of days a student could have attended
- The number of days a student attended
  - Regular Classroom
  - In-house Suspension
- The number of days a student was absent
  - Excused
  - Unexcused
  - Out-of-school Suspension

Based on the student-level data submitted, LEAs received a certification report in CALPADS with the following information:

**CALPADS Certification Report 14.1**

<table>
<thead>
<tr>
<th>Absence Category</th>
<th>Count of Students with Percent Absence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Satisfactory Attendance</td>
<td>&lt; 5%</td>
</tr>
<tr>
<td>At-Risk</td>
<td>≥ 5% and &lt; 10%</td>
</tr>
<tr>
<td>Moderate Chronic Absent</td>
<td>≥ 10% and &lt; 20%</td>
</tr>
<tr>
<td>Severe Chronic Absent</td>
<td>≥ 20%</td>
</tr>
</tbody>
</table>

Status of Data Analysis

As indicated in the September 2017 SBE Agenda 2, Attachment 6 (https://www.cde.ca.gov/be/ag/ag/yr17/documents/sep17item02.doc), the CDE anticipated completing the data analysis to provide to the Technical Design Group (TDG) at their meeting on October 25, 2017. The initial review indicates that the first data collection is of high quality; however, additional analysis is required at the student group level that could not be completed prior to the TDG meeting. The CDE plans to continue the technical review of the data and is currently preparing the data for posting to the CDE’s data reporting Web site, DataQuest, for release at the same time as the Fall 2017 Dashboard.

Following the completion of the student-level analysis and review by the TDG, the CDE recommends that the SBE include information in the Fall 2017 Dashboard to redirect users to the Chronic Absenteeism reports on DataQuest. It also recommends that the SBE direct CDE staff to develop a recommendation for the March 2018 SBE meeting on
proposed Status cut scores that will subsequently be used to update the Fall 2017 Dashboard Chronic Absenteeism Indicator. Finally, it recommends that the SBE direct CDE staff to develop a recommendation for the September or November 2018 SBE meeting on proposed Change cut scores.
School Climate Local Indicator: Update on the Work Of School Conditions and Climate Work Group (CCWG) Recommendations

At its July 2016 meeting, the State Board of Education (SBE) approved a methodology for establishing standards for local performance indicators, including one related to the use of local climate surveys to support a broader assessment of performance related to Local Control Funding Formula (LCFF) Priority 6-School Climate. The SBE adopted the LCFF Evaluation Rubrics, including the standard for the use of local climate surveys, at its September 2016 meeting (http://www.cde.ca.gov/be/ag/ag/yr16/documents/sep16item01.doc). The approved approach focuses on the initial year of implementation of the LCFF Evaluation Rubrics as the state transitions to an integrated local, state, and federal accountability and continuous improvement system.

Background

The California Department of Education (CDE), in partnership with the California Comprehensive Center at WestEd, convened with the CCWG to explore options for the further development of school conditions and climate measures in California’s accountability and continuous improvement system. The role of the CCWG is advisory to the CDE and the State Superintendent of Public Instruction (SSPI). The CCWG includes a broad range of stakeholders including practitioners, researchers, and advocates.

Since September 2016, the CDE and CCWG have actively engaged, the California Practitioners Advisory Group (CPAG), local educational agencies (LEAs), and other external stakeholders in the process of creating and reviewing emerging ideas generated by the work group. The CCWG has worked diligently to synthesize their thinking and incorporate SBE, CPAG and stakeholder feedback to prepare a comprehensive set of recommendations to the CDE and SPI.

The primary recommendations developed by the CCWG provide a framework for state and LEA level action and were included in the CCWG’s final recommendation framework. The framework includes detailed state and LEA level recommendations, a rationale for each, as well as a list of the CCWG members and was presented to the SBE via an Information Memorandum on October 26, 2017 (https://www.cde.ca.gov/be/pn/im/documents/memo-oct17item01.doc and https://www.cde.ca.gov/be/pn/im/documents/memo-oct17item01a1.pdf). SBE members will be presented with a summary report of the work of the CCWG during the November 2017 SBE Meeting.

This attachment presents a synthesis of the CCWG recommendations the CDE will likely bring forward to the SBE for discussion and approval which can be acted upon with existing resources and authority at a future SBE Meeting. In the interim, the CDE
will seek additional stakeholder feedback on the proposed recommendations (see Stakeholder Engagement Timeline) beginning in November 2017.

No action is recommended at this time. However, The CDE recommends that the SBE provide direction, feedback, and guidance on the CCWG update.

The CDE also recommends that the SBE take additional action as deemed necessary and appropriate on school conditions and climate policy-related decisions.

**CCWG Scope**

The CCWG’s process began with SBE direction to explore the development and inclusion of further school climate measures into the LCFF Evaluation Rubrics. The CDE, in partnership with the California Comprehensive Center at WestEd, then convened a working group of experts to review the literature on school climate, social-emotional learning, and academic perseverance, and other states’ approaches to incorporating school climate measures in their accountability and improvement systems.

Based on their review of the literature, the approach of other states, the experience of California LEAs and networks, and ongoing input from stakeholders, the working group was charged with identifying and analyzing existing measures for school climate. They identified options for how California could proceed by using or adapting existing measures, or developing one or more new measures for use as an indicator in the accountability and continuous improvement system.

In addition, the working group identified tools, resources, and surveys that measure broader aspects of school climate, such as, parental involvement, conditions of learning, implementation of state academic standards, access to broad courses of study, and the coordination of services. Thus, the CCWG’s work continues to inform accountability and continuous improvement activities relevant to LCFF Priorities 1, 2, 3, 7, 8, 9 and 10.

An underlying principle guiding the work of the CCWG is the shared commitment to view school climate and conditions through three lenses: 1) equity, 2) validity and 3) meaningful family engagement. In consultation with stakeholders, the CCWG generated a school conditions and climate definition and set of features to establish a common foundation for the CCWG’s suggestions for policy development in the area of school conditions and climate. All of the CCWG’s recommendations are based on this common definition (see below).

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5 See SBE Information Memorandum: Process to Identify Options for School Climate Surveys and a Composite Measure of English Learner Proficiency for the Local, State and Federal Accountability and Continuous Improvement System, Attachment 1.
http://www.cde.ca.gov/be/pn/im/documents/memo-dsib-amard-jun16item02.doc

6 See SBE Information Memorandum: Update on the School Conditions and Climate Work Group.
http://www.cde.ca.gov/be/pn/im/documents/memo-exe-jan17item01.doc
In light of this, the CCWG has developed a set of comprehensive recommendations for implementation at the state and LEA level to build capacity and supports for LEAs to measure and report their progress on school conditions and climate. These recommendations apply to all LEAs, schools, and student groups (e.g., race/ethnicity, socioeconomically disadvantaged, foster youth, English Learners, and students with disabilities). Several of the CCWG’s recommendations will require additional state financial support, and, potentially, modifications of statute. The SPI and CDE will be actively working towards the implementation of the full set of CCWG recommendations in collaboration with stakeholders.

Current SBE Adopted Approach and Self-Reflection Tool

The current SBE adopted approach for the School Climate Local Indicator is as follows:

Standard: LEA administers a local climate survey at least every other year that provides a valid measure of perceptions of school safety and connectedness, such as the California Healthy Kids Survey, to students in at least one grade within the grade span(s) that the LEA serves (e.g., K-5, 6-8, 9-12), and reports the results to its local governing board at a regularly scheduled meeting of the local governing board and to stakeholders and the public through the dashboard.

Evidence: LEA determines whether it administered a survey as specified and reported the results to its local governing board and through the local data selection option in the Dashboard.

Criteria: LEA assesses its performance on a [Met / Not Met / Not Met for Two or More Years] scale.

The current Dashboard Self-Reflection Tool states that:

LEAs will provide a narrative summary of the local administration and analysis of a local climate survey that captures a valid measure of student perceptions of school safety and connectedness in at least one grade within the grade span (e.g., K–5, 6–8, 9–12) in a text box provided in the Dashboard. Specifically, LEAs will have an opportunity to include differences among student groups, and for surveys that provide an overall score, such as the California Healthy Kids Survey, report the overall score for all students and student groups. This summary may also include an analysis of a subset of specific items on a local survey that is particularly relevant to school safety and connectedness.
Proposed Draft Recommendations for Future Consideration in 2018

1. Approve the inclusion of useful tools, resources, and supports for school conditions and climate within the developing Statewide System of Support to support the capacity of system actors such as county offices of education, LEAs, and schools.

2. Approve the proposed update to the Self-Reflection Tool that guides LEAs in determining progress on the local performance indicators for School Conditions and Climate (Priority 6).

3. Direct the CDE to conduct further analysis to explore options for a combination and integration of self-reflection tools that can determine progress on multiple local indicators concurrently, to minimize duplication of effort. – i.e., Parent Engagement (Priority 3) and School Climate (Priority 6).

Impact on Local Indicators

The proposed recommendations will pose an impact on the local indicators for LCFF Priority 6. In addition, should the CDE develop and the SBE approve, a self-reflection tool that combines multiple local indicators, there could be an impact on local level implementation of the approved standards for Priorities 3 and 6 at the time of implementation.
The following is a DRAFT revision to the self-reflection tool, from which the CDE will seek stakeholder feedback. The self-reflection tool is intended to assist LEAs in measuring and reporting progress on the local performance indicator for School Conditions and Climate (Priority 6).

**Proposed Update for the Self-Reflection Tool for School Climate (Priority 6)**

LEAs will provide a narrative summary of the local administration and analysis of a local climate survey that captures a valid measure of student perceptions of school safety and connectedness in at least one grade within the grade span (e.g., K–5, 6–8, 9–12) in a text box provided in the Dashboard. LEAs will have an opportunity to include differences among student groups, and for surveys that provide an overall score, report the overall score for all students and student groups. This summary may also include an analysis of a subset of specific items on a local survey that is particularly relevant to school conditions and climate. Specifically, the LEA should include responses to the following guiding questions to help frame the narrative summary.

(1) Reflect on the key learnings from the survey results, and share what the LEA learned.

(2) Given the disaggregated results\(^7\) of the survey and other data collection methods, what does that reveal about schools in the LEA?

(3) What revisions, decisions, or new actions will the LEA implement in response to the results for continuous improvement purposes? Why?

---

\(^7\) LEAs should report the results of their school conditions and climate tools on the Dashboard, by including a URL to a district website that shows the school conditions and climate survey results, disaggregated by student groups, with a minimum n-size, for each school site, if applicable.
Timeline for Ongoing Developmental Activities for School Conditions and Climate (LCFF Priority 6)\(^8\)

The CDE will continue to explore options to implement the remaining School Conditions and Climate Work Group (CCWG) recommendations to further the development of school conditions and climate measures in California’s accountability and continuous improvement system, including seeking additional stakeholder feedback on the proposed recommendations beginning in November 2017.

<table>
<thead>
<tr>
<th>Date</th>
<th>Suggested Method</th>
<th>Event Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 2017</td>
<td>In-person</td>
<td>• The CCWG will continue working to develop and refine recommendations</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• California Practitioners Advisory Group (CPAG), December, 5, 2017</td>
</tr>
<tr>
<td>January 2017</td>
<td>Webinar</td>
<td>• The CCWG will continue working to develop and refine recommendations</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• LCFF Evaluation Rubrics Local Performance Indicators: Update on School Conditions and Climate Work Group (Priority 6) (Date and Time to be determined (TBD))</td>
</tr>
<tr>
<td>February 2017</td>
<td>In-Person</td>
<td>• The CCWG will continue working to develop and refine recommendations</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• CPAG, February 15, 2018</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Stakeholder Engagement Session (Date, Time, Location, TBD)</td>
</tr>
<tr>
<td>March 2017</td>
<td>In-Person</td>
<td>• The CCWG will continue working to develop and refine recommendations</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Note: The CDE anticipates presenting preliminary recommendations/options to the State Board of Education (SBE) for transition plan to support the use of school conditions and climate measures in the accountability and continuous improvement system (SBE Meeting in March 2018)</td>
</tr>
<tr>
<td>April 2017 and beyond</td>
<td>TBD</td>
<td>• If necessary, the CCWG will continue working to develop and refine recommendations</td>
</tr>
</tbody>
</table>

\(^8\) Dates and proposed development activities are subject to change.
School Conditions and Climate Work Group Definition and Features

Definition

“School Conditions and Climate” refers to the character and quality of school life. This includes the values, expectations, interpersonal relationships, materials and resources, supports, physical environment, and practices that foster a welcoming, inclusive, and academically challenging environment. Positive school climate and conditions ensure people in the school community (students, staff, family, and community) feel socially, emotionally, and physically safe, supported, connected to the school, and engaged in learning and teaching.

Features

Features that promote a positive school climate and affect the attitudes, behaviors, and performance of both students and staff include, but are not limited to:

- An intentional student-centric commitment to meeting the basic-cognitive, social, emotional, and physical health needs of youth and fostering the competencies and mindsets that contribute to success in school, career, and life;
- Caring, trusting, respectful relationships among and between students, staff, parents, and families;
- High expectations for academic achievement and behavior and the social-emotional and pedagogical supports students need to meet those expectations;
- The presence of meaningful stakeholder participation that fosters a sense of contribution, empowerment, and ownership; and
- A sense of order and safety grounded in clearly communicated rules and expectations, and fair and equitable discipline
- Well-maintained resources and facilities.

Lenses

Equity: The landscape of California schools includes a rich diversity of students with diverse needs that should be embraced to support community collaboration in a welcoming and responsive way. The CCWG’s intentional equity frame is intended to drive action aimed at increasing equity utilizing multiple layers of data disaggregation, including state, LEA, school, and student group levels.

Validity: When considering what we measure, how we measure it, and how to interpret scores, we must work to ensure stakeholder understanding of the evidence to support particular uses of data. This includes helping data users to better understand tradeoffs when making choices about instruments related to issues with validity, reliability, fairness, and bias.

Family Engagement: Research shows that parent engagement improves academic achievement and school connectedness. It is essential to capture and reflect a diverse set of
parent voices in the recommendation. To that end, the CDE will link existing and ongoing work supporting Family Engagement to the CCWG with an additional work group and/or focus groups as necessary.
Local Performance Indicator for Priority 7-Access to a Broad Course of Study

At its November 2016 meeting, the State Board of Education (SBE) approved tools for local educational agencies (LEAs) to determine progress on the local performance indicators for the Local Control Funding Formula (LCFF) Priority 1-Basics, Priority 6-School Climate, Priority 9-Coordination of Services for Expelled Students, and Priority 10-Coordination of Services for Foster Youth (http://www.cde.ca.gov/be/ag/ag/yr16/documents/nov16item03.doc). At its January 2017 meeting, the SBE approved tools for LEAs to determine progress on the local performance indicators for LCFF Priority 2-State Academic Standards and Priority 3-Parent Engagement (http://www.cde.ca.gov/be/ag/ag/yr17/documents/jan17item02.doc). LEAs will use these self-reflection tools to evaluate and report their progress on the California School Dashboard (Dashboard) in the local performance indicators.

This attachment describes an approach to determine progress on the local performance indicator for LCFF Priority 7-Access to a Broad Course of Study using a narrative summary based on locally identified measures. The California Department of Education (CDE) recommends the SBE approve the inclusion of a local indicator for Priority 7 and adopt standards for the local indicator consistent with the standards adopted by the SBE for the current local indicators. The CDE will seek stakeholder feedback on the proposed self-reflection tool from October 2017 to February 2018 and present the final draft to the SBE at its March 2018 meeting for approval and integration into the Fall 2018 Dashboard release.

Background

The LCFF statute requires that the evaluation rubrics include standards for all LCFF priorities. An LEA’s performance, as assessed by the evaluation rubrics, is determined by state and local performance indicators and is reported through the Dashboard. State indicators meet the criteria of: (1) being valid and reliable measures, (2) having comparable state-level data, and (3) being disaggregated by student groups. These criteria ensure a common and comparable way of measuring performance on the indicators across the state, including for student groups. The SBE adopted state indicators for Priority 4-Student Achievement, Priority 5-Student Engagement, and Priority 6 at their September 2016 meeting.

However, Priorities 1, 2, 3, 7, 9, and 10, and one metric from Priority 6 do not have indicators that meet the criteria for state indicators. At its September 2016 meeting, the SBE set standards that support LEAs in tracking and reporting their progress within the remaining LCFF priorities through local performance indicators.

The initial phase of the evaluation rubrics included local performance indicators for the following LCFF priorities:
• Appropriately Assigned Teachers, Access to Curriculum-Aligned Instructional Materials, and Safe, Clean and Functional School Facilities (Priority 1)

• Implementation of State Academic Standards (Priority 2)

• Parent Engagement (Priority 3)

• School Climate—Local Climate Surveys (Priority 6)

• Coordination of Services for Expelled Students—County Offices of Education (COEs) Only (Priority 9)

• Coordination of Services for Foster Youth—COEs Only (Priority 10)

At its September 2016 meeting, the SBE approved standards and the scale by which an LEA will assess its performance of meeting the standards for each of these local performance indicators (http://www.cde.ca.gov/be/ag/ag/yr16/documents/sep16item01.doc). For each local indicator, the standard involves:

1. Measuring LEA progress on the local performance indicator based on locally available information, and

2. Reporting the results to the LEA’s local governing board at a regularly scheduled meeting and to stakeholders and the public through the evaluation rubrics.

LEAs assess their performance of meeting the SBE approved standards on a (Met, Not Met, or Not Met for More than Two Years) scale. LEAs make this determination by using SBE-adopted self-reflection tools that report an LEA’s progress through the Dashboard. The CDE is proposing adding the new local indicator and self-reflection tool for Priority 7—Access to a Broad Course of Study into the Dashboard for the Fall 2018 release.
The following is a DRAFT self-reflection tool, from which the CDE will seek stakeholder feedback. The self-reflection tool is intended to assist LEAs in measuring and reporting progress on the local performance indicator for Access to a Broad Course of Study (Priority 7).

**Self-Reflection Tool for Access to a Broad Course of Study—Priority 7**

- **Standard**: LEA annually measures the extent to which students have access to, and are enrolled in, a broad course of study consistent with California *Education Code* (*EC*) Section 51210 and in *EC* Section 51220 (a) through (i), based on grade spans, unduplicated pupil groups, and individuals with exceptional needs served, and reports the results both to its local governing board at a regularly scheduled meeting of the local governing board and to stakeholders and the public through the Dashboard.

- **Evidence**: LEA determines whether it annually measured its progress through the use of a self-reflection tool included in the Dashboard, and reported the results to its local governing board at a regularly scheduled meeting of the local governing board and through the local data selection option in the Dashboard.

- **Criteria**: LEA determines whether or not it has met the standard on the (Met, Not Met, or Not Met for Two or More Years) scale.

**Approach for Self-Reflection Tool to Use as Evidence**

LEAs provide a narrative summary of the extent to which all students have access to and are enrolled in a broad course of study by addressing, at a minimum, the following three prompts:

1. Briefly identify the locally selected measures or tools that the LEA is using to track the extent to which students have access to, and are enrolled in, a broad course of study consistent with *EC* Section 51210 and in *EC* Section 51220 (a) through (i), based on grade spans, unduplicated student groups, and individuals with exceptional needs served.

2. Briefly describe why the LEA chose the selected measures or tools.
3. Using the locally selected measures or tools, summarize the extent to which students have access to, and are enrolled in, a broad course of study. The summary may identify differences across school sites and/or student groups in access to, and enrollment in, a broad course of study, and may describe progress over time in the extent to which students have access to, and are enrolled in, a broad course of study.

Additional information about enrollment in courses and the number of courses offered in different subjects at schools is available on the CDE DataQuest Web page at http://data1.cde.ca.gov/dataquest/page2.asp?Level=District&subject=Course.
**Update on the California School Dashboard**

The California Department of Education (CDE) and State Board of Education staff continue to prepare the data, communication resources, and technical components for the public release of the Fall 2017 California School Dashboard (Dashboard) ([https://www.caschooldashboard.org/](https://www.caschooldashboard.org/)). To support the public rollout planned for the week of November 27, 2017, CDE staff presented at several conferences, including, but not limited to, the annual CDE North/South Assessment and Accountability Meetings; California Association of Administrators of State and Federal Education Programs; Advisory Commission on Special Education; and Local Control Funding Formula Stakeholder meeting.

Additionally, a six-part Webinar series began on October 26, 2017 with a general introduction to the Dashboard and the local indicators, and culminates in early December following the 2017 Fall Dashboard release on how to use this new data in the Local Control and Accountability Plan process. Additional information about each of the Webinars is available on the CDE Fall 2017 Dashboard Webinar Series Web page at [https://www.cde.ca.gov/ta/ac/cm/fall2017webinars.asp](https://www.cde.ca.gov/ta/ac/cm/fall2017webinars.asp). The series complements the local educational agency private preview of the Dashboard, which begins November 1, 2017, with a rolling release of two state indicators per week through the week prior to Thanksgiving.

An updated Dashboard Technical Guide and resource materials are in development for the public release. The resource materials include handouts that focus on English learners in the Dashboard, an introduction to the College/Career Indicator, overview of the Dashboard Alternative Schools Status, and how to use the 5 x 5 placement grids and reports. Spanish translations of the handouts will be available on the Dashboard Web site and CDE California Accountability Model & School Dashboard Web page at [https://www.cde.ca.gov/dashboard](https://www.cde.ca.gov/dashboard).
CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2017 AGENDA

SUBJECT
Update on the Development of California’s System of Support for Local Educational Agencies and Schools.

SUMMARY OF THE ISSUE(S)
This item provides an update on the development of California’s system of support for local educational agencies (LEAs) and schools. It was created in collaboration with several agencies charged with specific responsibilities to provide assistance and support to LEAs under the Local Control Funding Formula (LCFF).

This item builds upon the September 2017 State Board of Education (SBE) Item 3, which focused on support underway for the 2017–18 school year and highlighted the work of several county offices of education (COEs) (https://www.cde.ca.gov/be/ag/yr17/documents/sep17item03.doc). This item also builds upon the July 2017 SBE Item 2, which outlined key questions for stakeholder feedback and summarized the goals and characteristics for the development of California’s system of support (https://www.cde.ca.gov/be/ag/yr17/documents/jul17item02.doc). It also builds upon key policy issues for developing a system of support based on the LCFF that were summarized in a June 2017 information memorandum (https://www.cde.ca.gov/be/pn/im/documents/memo-exec-ocd-jun17item02.doc).

RECOMMENDATION
No action is recommended at this time. However, the California Department of Education (CDE) recommends that the SBE provide feedback on the system of support update.

The CDE also recommends that the SBE take additional action as deemed necessary and appropriate.

BRIEF HISTORY OF KEY ISSUES
In order to improve the education of our students, California is in the process of creating a coordinated and coherent state structure to ensure that LEAs receive resources and
support to meet identified student needs, including disparities in outcomes or opportunities.

The LCFF recognized that some LEAs may require additional assistance to improve student performance, and identifies several agencies with a role in providing differentiated assistance or more intensive intervention to LEAs: the CDE, COEs, and the California Collaborative for Educational Excellence (CCEE), with the SBE playing a central policy role. These agencies are responsible for coordinating those supports and aligning similar supports under federal and other state programs with the approach under LCFF, including those LEAs seeking assistance from other providers.

These agencies have committed to meeting every other month to coordinate and align their approach to offering assistance and to systematically engage local educators and other stakeholders to incorporate their perspective, needs, and feedback into the development of the system of support. Over the past six months, representatives of these agencies have created common agreements about their approach to assistance and necessary elements of the system of support.

Due to the urgency of developing a consistent approach to providing differentiated assistance to LEAs identified for assistance with the Fall 2017 California School Dashboard (Dashboard) release, this item focuses primarily on the approach to serving LEAs in the 2017–18 school year.

California’s system of support includes three levels of support to LEAs (school districts, COEs, and charter schools) and schools. Table 1 summarizes the supports available in each level of the system of support for LEAs and schools.

Table 1: Overview of Statewide System of Support

<table>
<thead>
<tr>
<th>Level of Support</th>
<th>Description of Supports Available</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Support for All LEAs and Schools</strong> (Level 1)</td>
<td>Various state and local agencies provide an array of resources, tools, and voluntary assistance that all LEAs may use to improve student performance at the LEA and school level and narrow disparities among student groups across the LCFF priorities, including recognition for success and the ability to share promising practices.</td>
</tr>
<tr>
<td><strong>Differentiated Assistance</strong> (Level 2)</td>
<td>County superintendents, the CDE, charter authorizers, and the CCEE provide <strong>differentiated assistance</strong> for LEAs and schools, in the form of individually designed assistance, to address identified performance issues, including significant disparities in performance among student groups.</td>
</tr>
<tr>
<td><strong>Intensive Intervention</strong> (Level 3)</td>
<td>The State Superintendent of Public Instruction or, for charter schools, the charter authorizer may require more <strong>intensive interventions</strong> for LEAs or schools with persistent performance issues over a specified time period.</td>
</tr>
</tbody>
</table>
This item focuses on differentiated assistance (Level 2).

Under the LCFF statutes, county superintendents shall provide technical assistance to a school district if it has not improved student group performance within two or more of the eight state priorities under the LCFF. The SBE has defined this technical assistance as differentiated assistance (Level 2) within the system of support. For purposes of this item, the term “differentiated assistance” will be used to refer to the “technical assistance” required by statute.

County superintendents are responsible for providing differentiated assistance to their local school districts in response to needs identified on the Dashboard beginning in fall 2017. The eligibility criteria for differentiated assistance are based on performance standards that the SBE adopted for the state priorities, as detailed in Attachment 1. In brief, progress within the state priorities is measured on state indicators (color-coded rating) and local indicators (met/not met/not met for two or more years rating) and reported annually in the Dashboard. For the state indicators, the measurement takes into account current performance (Status) and whether there has been improvement over time (Change).

Statutory Framework

The statute describes what differentiated assistance may entail (California Education Code Section 52071). Specifically, differentiated assistance is defined to include:

. . . among other things [emphasis added], any of the following:

(1) Identification of the school district’s strengths and weaknesses in regard to the state priorities . . . , communicated in writing to the school district. This identification shall include a review of effective, evidence-based programs that apply to the school district’s goals.

(2) Assignment of an academic expert or team of academic experts to assist the school district in identifying and implementing effective programs that are designed to improve the outcomes for all pupil subgroups identified pursuant to Section 52052. The county superintendent of schools may also solicit another school district within the county to act as a partner to the school district in need of technical assistance.

(3) Request that the California Collaborative for Educational Excellence provide advice and assistance to the school district.

This “among other things” definition reflects the legislative intent that differentiated assistance be flexible and context specific. At the September 2017 SBE meeting, the SBE considered how California’s approach to assistance under LCFF differs from past approaches to school accountability. Three of the key shifts reflect the intent of the LCFF in that differentiated assistance be tailored to locally identified needs, rather than imposed as a one-size-fits-all solution, including:

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• Support providers working alongside LEAs and their schools to identify key challenges and opportunities.

• Using a systemic approach tailored to locally identified needs and strengths.

• Engaging with local educators and communities as part of decision making.

At the September 2017 SBE meeting, the SBE also considered the system of support’s elements—those distinguishing areas of work that will occur in the system of support—and what those elements entail. Table 2 provides a brief description of the features of each element, with a focus on the differentiated assistance that county superintendents must provide to eligible school districts beginning this fall.

**Table 2. Elements of the System of Support**

<table>
<thead>
<tr>
<th>Element</th>
<th>Description and Features</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Pathways to Support and Assistance</strong></td>
<td>• At least three pathways to support and assistance identified in statute: (1) through identification in the Dashboard, (2) LEA volunteers and requests support, and (3) COE denies approval of the Local Control and Accountability Plan (LCAP) and provides assistance.</td>
</tr>
<tr>
<td></td>
<td>• County superintendent contacts LEA identified for differentiated assistance.</td>
</tr>
<tr>
<td><strong>Initial Outreach to LEAs</strong></td>
<td>• County superintendent contacts superintendent of school districts identified through the Dashboard for assistance and support.</td>
</tr>
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<td></td>
<td>• Joint communication from state agencies to each LEA identified through the Dashboard for assistance and support.</td>
</tr>
<tr>
<td></td>
<td>• The various agencies charged with providing assistance/support follow a consistent approach and are aware of the resources and supports available to LEAs and schools. LEAs and schools receiving assistance are not responsible for coordinating support.</td>
</tr>
<tr>
<td><strong>Review of Data: Assessing Strengths and Underlying Causes for Student Outcomes</strong></td>
<td>• The consistent approach to assistance should focus on supporting LEAs and local stakeholders to identify strengths and the underlying cause of the challenges and identifying options that address them building on their strengths and assets.</td>
</tr>
<tr>
<td></td>
<td>• The Dashboard helps LEAs identify strengths, weaknesses, and areas in need of improvement, in conjunction with locally available data.</td>
</tr>
<tr>
<td>Element</td>
<td>Description and Features</td>
</tr>
<tr>
<td>---------</td>
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</tr>
</tbody>
</table>
| **Support to LEAs and their Schools to Improve Student Outcomes** | • LEAs are the primary drivers of the technical assistance and support they receive under LCFF.  
• The LCAP process is the driver for identifying needs, goals, and outcomes that can be addressed by aligning resources and actions/services to identified needs. Since COEs review and approve school districts’ LCAPs, the assistance process should support and align with the LCAP development.  
• The approach to assistance should maintain and leverage points of connection through the LCAP development and review cycle, which creates connections between the Dashboard, LCAP process, and the system of support. |

The statute does not limit assistance to only those indicators and student groups that led to an LEA’s eligibility for differentiated assistance. In fact, identified best practices require a broad evaluation of student needs before discussions about strategies for improving student outcomes can commence. For example, if an LEA is eligible for assistance based on the performance of African American students on the state assessments and graduation rate, the LEA may conclude, through the review of data and analysis of underlying causes facilitated by its COE (or, in some circumstances, another agency), that chronic absenteeism was a significant contributing factor to low student performance on the other indicators.

Accordingly, although the review of data and analysis of underlying causes will certainly focus on the indicators and student groups that prompted eligibility, it will not be limited only to those areas, and any further assistance should focus on the area(s) of need that the LEA identifies as well as strengths and assets that should be further developed and utilized as part of the continuous improvement process. This process will focus on a collaborative conversation that leads to problem identification and may be further illuminated from information in the LCAP. Differentiated assistance incorporates, as a key component, the holistic review of data and an analysis of underlying needs that has always been at the heart of the LCAP process. As a result, differentiated assistance should strengthen the district’s LCAP development process, including the stakeholder engagement process as well as the district’s understanding of the underlying causes of any performance issues that inform decisions about local priorities. Changes in approach that may occur as a result of differentiated assistance should also be reflected through the LCAP, including the LCAP Plan Summary.

As a reminder, the goal of the system of support is to assist LEAs and their schools to meet the needs of each student served, with a focus on building capacity to sustain improvement and effectively address inequities in student opportunities and outcomes. This means that the outcomes for this work include improvement not only on end of the year goals reflected on the Dashboard, but also on interim progress measurements. To no longer be identified for differentiated assistance, LEAs must show growth and no longer have any student group that meets the criteria for two or more LCFF priorities.
(see Attachment 1 for the criteria). Outcomes will also include evidence of stronger local capacity to improve student success and increased ownership of local accountability. Clear evidence is when LEAs no longer rely on the COE or state and others for direction on how to improve but instead have the capacity to bring forward their own needs and strengths, reflect upon them, and request additional support when they find an identified need.

Attachment 1 provides possible examples of assistance and an approach to feedback. Attachment 2 builds upon the September SBE review of a summary of support already underway for LEAs. The attachment includes highlights from California's Multi-Tiered Systems of Support work, a proposal for assistance to LEAs for support to improve the performance of students with disabilities as a result of primarily statewide data analysis, an example of a CCEE Professional Learning Network, and a pilot. Attachment 3 provides an update on the timeline for differentiated assistance.

**SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

In September 2017, the SBE received Item 3, an update on the system of support (https://www.cde.ca.gov/be/ag/ag/yr17/documents/sep17item03.doc).

In July 2017, the SBE received Item 2, which included proposed goals and characteristics of an integrated statewide system of support (https://www.cde.ca.gov/be/ag/ag/yr17/documents/jul17item02.doc). The SBE also received Item 3, which included a recommended framework for identifying the lowest performing 5 percent of schools under the Every Student Succeeds Act in a manner that is aligned to the identification of LEAs for additional support under LCFF (https://www.cde.ca.gov/be/ag/ag/yr17/documents/jul17item03rev.doc).

In June 2017, the SBE received the following information memoranda:

- Identification of the Lowest-Performing Five Percent of Title I Schools (https://www.cde.ca.gov/be/pn/im/documents/memo-dsib-amard-jun17item01.doc)

In August 2016, the SBE received the following information memorandum:


**FISCAL ANALYSIS (AS APPROPRIATE)**
Various state and federal funds are available to potentially be utilized within an integrated system of support. Staff will incorporate a more detailed fiscal analysis in future items, as appropriate, based on feedback and direction provided by the SBE on the structure of the overall system of support.

ATTACHMENT(S)

Attachment 1: Summary of Possible Examples of Assistance and Feedback (6 Pages)

Attachment 2: Summary of Fall 2017 Support for Local Educational Agencies (10 Pages)

Attachment 3: Updated Timeline for Differentiated Assistance Fall 2017–18 (1 Page)
Summary of Possible Examples of Assistance and Feedback

The following examples provide various scenarios for differentiated assistance, depending on local circumstances. They illustrate how providing differentiated assistance will help build local capacity to improve teaching and learning in classrooms, with the goal to improve student outcomes. The examples are illustrative only. They are not intended to describe “approved approaches” to assistance based on specific circumstances.

- **School District with One-Time/Unique Situation.** It is possible that some areas of low performance may not necessarily be tied to issues that require programmatic support or reflect a one-time situation that is unlikely to repeat itself in the future. For example, a school district may have misreported its graduation rate in the California Longitudinal Pupil Achievement Data System (CALPADS) and certified the incorrect data. The district’s correct graduation rate data would have not resulted in identification for differentiated assistance. The assistance from the county office of education (COE) could appropriately focus on addressing the internal process issue related to data reporting. If the district has already modified its protocols for data reporting, the needs assessment and assistance may consist of reviewing the new protocols with the school district to prevent a recurrence in the future.

- **School District Is Already Working to Address an Issue.** The California School Dashboard (Dashboard) reports summative annual data. School districts have their data before it is released in the Dashboard and have additional local data not reflected in the Dashboard. As a result, a school district may have identified an area in need and adjusted the approach for the current school year. The school district may have modified or included new actions/services in the 2017–18 Local Control and Accountability Plan (LCAP) or made other recent changes in its programs. For example, in developing its LCAP, a district may have determined that it was not making progress toward its goals for English learners. As a result, the LCAP includes revamped professional development for all teachers that emphasizes strategies that benefit English learners and/or hiring English learner coaches to support teachers at its school sites. The Fall 2017 Dashboard shows that the district is Red for English learners in Graduation Rate and the English Learner Progress State Indicator. Rather than assisting the school district to consider alternate strategies, the COE may offer further assistance focused on helping the school district to implement those new strategies and/or to monitor progress under the new strategies throughout the current year.

- **School District Is Already Receiving Assistance.** California currently provides numerous resources and supports to local educational agencies (LEAs) and schools. As a result, a school district identified for differentiated assistance may
therefore already be working with an assistance provider, potentially focused on an issue(s) that the Dashboard highlighted as an area of need or that already included a review of data and analysis of underlying causes.

For example, a school district might be participating in a Professional Learning Network hosted by the COE; may be receiving technical assistance from the California Department of Education (CDE) focused on special education services; may be part of the Multi-Tiered Systems of Support (MTSS) grant program administered by the Orange County Department of Education; or may be working with the California Collaborative for Educational Excellence (CCEE) as a pilot or through a request for advice and assistance.

The school district and COE may agree that the school district will be able to access appropriate assistance from that ongoing process. As a result, the COE’s role would be to defer to that process, with the district and COE checking in regularly so the COE is aware of how things are progressing and can offer any further assistance or tailor existing services to support the school district’s participation in that ongoing process.

• **School District Has Unaddressed Area of Need.** The Dashboard may identify an area of need for one or more student groups that the school district is *not* already addressing. Additionally, when reviewing the data, the school district and COE may identify areas of need beyond the indicators and student group(s) that led to eligibility for differentiated assistance or underlying causes for those performance issues that the school district is not already addressing.

In such circumstances, the COE would work with the school district to identify options for addressing that area of need. Those options may include leveraging expertise that exists within the school district or COE or connecting the school district with another entity that has relevant expertise or capacity. Because this conversation occurs within the context of and parallel to the process for developing the 2018–19 LCAP, the school district may include changes in the LCAP to address this area of need.

• **School District Has Persistent Issues.** Although this is the first year that the Dashboard is fully operational, the Dashboard results may reflect a long-standing challenge that a school district has not been able to address successfully. It is possible the COE has already attempted to support the school district over a period of years. The COE may conclude that additional expertise or capacity is needed to support the school district.

In such cases, the school district and COE may agree that support from another entity is needed or the COE may affirmatively request support from the CCEE, the CDE, or another entity with appropriate expertise, such as the Standards Implementation Steering Committees or lead entities under the MTSS grant program. The COE would remain involved in the assistance process, but another provider may take the lead in supporting the school district.
Conclusion

The scenarios above are intended to show a spectrum of what differentiated assistance may entail. They reflect the expectation that the underlying need(s) that the school district identifies through the review of data should dictate the focus of any further assistance. In some circumstances, supporting the school district through a review of its data and an analysis of underlying causes may represent the extent of the assistance provided, while in other areas, the COE may need to work with the school district to access additional expertise, potentially including referral to other providers.

This underscores the importance of the review of data and analysis of underlying causes as a part of differentiated assistance and the fact that review and analysis are not expected to focus only on the criteria that led to identification for differentiated assistance. The examples also highlight that differentiated assistance exists within the LCAP process. There is no statutory requirement for developing a new “improvement plan.”

Other Issues

Under the Local Control Funding Formula (LCFF), LEAs are the primary drivers of the technical assistance and support that they receive. Accordingly, COEs are not expected to be the sole provider of direct assistance responsive to every need that school districts may identify. Differentiated assistance will often entail connecting school districts to other assistance providers with relevant expertise and capacity. COEs will also need support to identify resources that may be available around the state. The cross agency group—the state agencies responsible for implementing differentiated assistance—is responsible for establishing a clear protocol to help school districts and COEs connect with available resources.

Finally, the preceding sections describe the expectations around differentiated assistance. However, there may be unique circumstances where a different approach is required. For example: (1) a COE believes that a school district is not a willing partner in engaging in a meaningful discussion of the underlying cause of the challenges; (2) a school district believes that the COE’s approach to working with the school district is “doing to” rather than “working with” the school district; (3) a school district believes that the COE lacks capacity and wants help from elsewhere; or (4) neither the COE nor the school district are interested in engaging with each other or anyone else. The cross agency group is responsible for developing a strategy for responding to concerns that school districts, COEs, or local stakeholders may raise, including establishing a clear protocol for raising such concerns and ensuring that support is provided.

Following are sample responses to each of the unique circumstances above:

(1) Depending on the scenario and how long this has been going on, the COE has the authority to become more actively involved either by rejecting the LCAP (if appropriate) or, more generally, under California Education Code (EC) Section
1240(a), to “superintend the schools of his or her county.” (This authority has been used in similar situations.) Additionally, the COE could always refer the district to the CCEE for “advice and assistance” under EC Section 52074(f)(2) since the COE’s legal obligation under EC Section 52071(a) to “provide” technical assistance will have been satisfied by simply making the needs assessment available to the district.

(2) In this situation, the COE could consider utilizing the other statutory options provided to it in EC sections 52071(a)(2) and (3) to assign an academic expert, a team of academic experts, solicit another district as a partner, or refer to the CCEE. There may be many other options available that the COE and the district could think of that do not directly involve the COE. There also may be an opportunity for the COE to be supported in finding other ways to “work with” the district.

(3) As with #2, the COE could consider utilizing the other statutory options provided to it in EC sections 52071(a)(2) and (3) to assign an academic expert, a team of academic experts, solicit another districts as a partner, or refer to the CCEE. There may be many other options available that the COE and the district could think of that do not directly involve the COE.

(4) It is hard to imagine a situation where the COE would not at least try to engage with a district. However, if this situation does occur, then the State Superintendent of Public Instruction can always refer the district to the CCEE for “advice and assistance” under EC Section 52074(f)(3).

Criteria to Determine Eligibility for Differentiated Assistance

COEs shall provide differentiated assistance to a school district if any student group meets the criteria for two or more LCFF priorities. EC Section 52071(b), EC Section 52071.5(b).

**Basics** (LCFF Priority 1)
- Not Met for Two or More Years on Local Performance Indicator

**Implementation of State Academic Standards** (LCFF Priority 2)
- Not Met for Two or More Years on Local Performance Indicator

**Parent Engagement** (LCFF Priority 3)
- Not Met for Two or More Years on Local Performance Indicator

**Pupil Achievement** (LCFF Priority 4)
- Red on both English language arts (ELA) and Math tests or
- Red on ELA or Math tests AND orange on the other test or
- Red on the English Language Indicator (English learner student group only)
**Pupil Engagement** (LCFF Priority 5)
- Red on Graduation Rate Indicator or
- Red on Chronic Absence Indicator

**School Climate** (LCFF Priority 6)
- Red on Suspension Rate Indicator or
- Not Met for Two or More Years on Local Performance Indicator

**Access to and Outcomes in a Broad Course of Study** (LCFF Priorities 7 & 8)
- Red on College/Career Indicator

**Summary of an Approach to Feedback for 2017–18 Assistance**

The cross agency group designed a feedback process to gather information on how improvement efforts are going. The cross agency group, with input from stakeholders, will develop a feedback loop that begins in December 2017 and continues through June 2018. This initial feedback loop will ensure that the perspective and experience of all participants is collected, synthesized, and shared. As a result, each agency can learn from what is working and what is not working. Initial designs of this feedback loop include:

1. Conversations with districts, stakeholders, and support providers every six to eight weeks.

2. Feedback from the conversations will be shared among districts, providers, and the cross agency group.

3. Each cross agency meeting will reflect on the data and adjust course when necessary.

Initial stakeholder discussions on this proposal favor the regular conversations; they suggested that a regular survey could accompany the conversation and help curate the responses. Stakeholders also suggested that the questions might evolve. Initially the feedback questions would focus on the data analysis and underlying causes and evolve to focus on LCAP development and plan implementation. The feedback needs to be gathered not only from district leadership but also from the communities and local educators, to determine if the work that districts and counties are engaged in are affecting teaching and learning. Stakeholder groups have agreed to partner with the cross agency group to develop those questions and help collect the feedback.

In addition to a feedback loop, COEs will work within their regional teams to share difficulties they are encountering. When a county needs more than a regional partnership to move forward with their district they will work with the California County Superintendents Educational Services Association and then the cross agency group to problem solve what is holding them back with working with their districts.
If school districts need additional support or want to address any difficulties they are encountering, they may contact a representative from the cross agency group. The cross agency group will continue to gather feedback from districts and stakeholders on elements of the system of support.
Summary of Fall 2017 Support for Local Educational Agencies

This attachment highlights support efforts already underway for local educational agencies (LEAs) that will be identified for differentiated assistance in the Fall 2017 California School Dashboard (Dashboard) release. This attachment builds upon the summary of support for districts provided to the State Board of Education (SBE) in September. It includes sections addressing:

- California’s Multi-Tiered System of Support (MTSS) Work
- A Proposal for Assistance to LEAs Identified for Support to Improve the Performance of Students with Disabilities (SWDs)
- An Example of a California Collaborative for Educational Excellence (CCEE) Professional Learning Network (PLN) and Pilot

California’s MTSS Work

In April 2016, the Orange County Department of Education (OCDE) was selected as the Lead Agency to receive $10 million in funding through the Developing, Aligning, and Improving Systems of Academic and Behavioral Supports (ISABS) grant to scale up the development, alignment, and improvement of academic and behavioral supports in California through the use of an MTSS process and framework as appropriated as part of Assembly Bill 104, Chapter 13, Section 57, Statutes of 2015. An additional $20 million was approved in the Governor’s budget revise (May 2016). The OCDE has titled this effort the California Scale-Up MTSS Statewide (SUMS) Initiative. ISABS (aka SUMS) prioritizes inclusive practices to increase access to high-quality education and resources for all students. It aims to re-engage marginalized students, reduce disproportionality of discipline referrals for minority students and SWDs, and address the unique needs of underserved populations such as children living in poverty, foster youth, juvenile justice involved youth, charter school students, and rural schools. The OCDE has partnered with the Butte County Office of Education (COE) and the School-wide Integrated Framework for Transformation (SWIFT) Center to implement this large scale effort.

The purpose of this section is to summarize the implementation and impact of ISABS (aka SUMS) and how funds were used in the 2016–17 fiscal year. Below are the highlights for Year 2.

A. Activities conducted and resources developed

- A four-tiered network of coaches and trainers to provide professional learning and technical assistance to LEAs and charter schools.
• A customized professional learning series based on SWIFT Center’s five evidence-based domains and national technical assistance model.

• Evidence-based evaluation tools LEAs and schools can use to monitor progress and measure the effectiveness of their implementation.

• Regional and statewide conferences to provide educators with the latest research-based practices to scale up an MTSS.

• An online portal to collect and disseminate evidence-based best practices and training modules.

• Competitive startup sub-grants for LEA and school personnel to attend trainings and conferences.

B. LEA sub-agreements

• 11 COEs as Region Leads, total award: $110,000

• 58 COEs as County Leads, total award: $2,095,000

• 98 Knowledge Development Sites (KDS), total award: $465,000

• 105 LEAs as Cohort 1, total award: $3,225,000

C. Number of educators and students served

• 385 educators representing schools, districts, counties, regions, and the State Leadership Team attended the Training Series. These educators could potentially serve an additional 3,519 educators and 63,182 students.

• 958 educators from across the state attended the Professional Learning Institute in July.

D. Identify evidence-based strategies

• Objective 1: Existing evidence-based resources have been identified.

• Objective 2: Professional learning activities have been identified and are under development.

• Objective 3: Other efforts currently available at the state, federal, and local levels have been identified.
Objective 4: New evidence-based resources and activities are under development.

Objective 5: A community of practice is under development.

Objective 6: A tool to capture qualitative information regarding LEAs’ MTSS implementation policies and processes is under development.

E. Outcome data

- To date, technical assistance provided to KDSs ranged from 1 hour to 12 hours (3.5 hours on average) and focused on Leadership, MTSS, and Policy.

- A Total Current Implementation percentage of 44 percent (baseline) on the LEA Readiness Checklist indicates that Cohort 1 LEAs acknowledge that they have some LEA-wide practices in place but there is more work to do.

- A Total Current Implementation percentage of 38 percent (baseline) on the SWIFT-Fidelity Integrity Assessment (SWIFT-FIA) indicates that KDSs similarly acknowledge that they have some school-wide practices in place but there is more work to do.

F. Additional outcome data

- 27 percent of KDSs are performing at the highest levels for mathematics.

- 33 percent of KDSs are performing at the highest levels for English language arts.

- 53 percent of KDSs are performing at the highest levels for Suspension Rate.

- KDS average suspension rate is 4.43 percent (baseline).

- 86 percent of KDSs are performing at the highest levels for Graduation Rate.

- KDS average graduation rate is 87.54 percent (baseline).

G. Recommendations for improving state-level activities or policies

- The OCDE will report findings of evidence-based tools and resources that support LEAs to the California Department of Education (CDE) to inform policy or process adjustments.
A Proposal for Assistance to LEAs Identified for Support to Improve the Performance of SWDs

Based on a June 2017 informational memorandum to the SBE and additional analysis of those LEAs potentially identified for technical assistance, approximately two-thirds of the potentially identified LEAs will be identified based on the performance of their SWDs student group in one or more priority areas as noted in the Table 1 below.

**Table 1.**

<table>
<thead>
<tr>
<th>Student Group Qualifying LEA for Support</th>
<th># LEAs Qualified for Support</th>
<th>Priority 4 and 5*</th>
<th>Priority 4 and 6*</th>
<th>Priority 5 and 6*</th>
<th>Priority 4, 5, and 6*</th>
</tr>
</thead>
<tbody>
<tr>
<td>SWDs</td>
<td>139</td>
<td>30</td>
<td>88</td>
<td>7</td>
<td>14</td>
</tr>
<tr>
<td>All other Student Groups</td>
<td>217</td>
<td>37</td>
<td>157</td>
<td>9</td>
<td>14</td>
</tr>
</tbody>
</table>

*Priority areas: 4 = Academic and English Learner Progress Indicators, 5 = Graduation Rate Indicator, and 6 = Suspension Rate Indicator.

The concentration of LEAs with performance challenges of their SWDs is consistent with past trends, but should not be interpreted as challenges or weaknesses specific to special education programs in isolation. As noted in the state’s 2015 Special Education Task Force Report, *One System: Reforming Education to Serve ALL Students* (http://www.smcoe.org/assets/files/about-smcoe/superintendents-office/statewide-special-education-task-force/Task%20Force%20Report%205.18.15.pdf, p.7):

In a coherent system of education, all children and students with disabilities are considered general education students first; and all educators, regardless of which students they are assigned to serve, have a collective responsibility to see that all children receive the education and the supports they need to maximize their development and potential, allowing them to participate meaningfully in the nation’s economy and democracy.

California’s design of a new system of support includes an overall assessment of strengths and weaknesses, which will help LEAs improve and enhance the way in which the Local Control and Accountability Plan (LCAP) serves as a guide to achieving positive outcomes for all students. An added complement to a robust response to strengths and weaknesses is to attend to the unique and specific needs indicative of data indicators at the student subgroup level. Given the performance noted above for SWDs, the CCEE in partnership with the CDE and other state and local agencies, will work together to provide targeted support in response to this area of need.

This approach includes:

- Leveraging existing capacities and partnerships among those that can support LEAs to identify and implement improvements to attend to the system needs
evidenced by the performance of SWDs.

- Providing resources that reflect research, evidence-based, effective examples, and shared learning.

- Encouraging new approaches by LEAs with support to implement and make changes to the overall system of teaching and learning with an intent to effect who receives special education services.

The CCEE proposes creating and leading, in collaboration with the CDE, an SWDs/Professional Learning Network (PLN) Collective (Collective) that draws from its experience with PLNs related to improve and support LCAP development and use. The Collective will coordinate and leverage existing partnerships and establish new ones to define PLNs that will serve as both a support mechanism and connector for LEAs challenged with targeted improvement of SWDs.

This Collective will also leverage California’s $30 million investment in the work of the SUMS Initiative: Scaling up MTSS through a strategic partnership building on the training and resources developed through this statewide project currently in year 2. The CCEE is currently partnering with the OCDE and the CDE to develop and implement differentiated assistance PLNs to focus on particular student groups, including SWDs, based on the MTSS framework.

Targeted and Universal Levels of Support

- **Targeted support for identified LEAs:** This strand of support would focus on providing immediate technical assistance and support to LEAs that will be identified following the Fall 2017 Dashboard release as a result of the performance of their SWDs student group. This support would ensure the essential first step within a systems improvement process, a root cause analysis, is conducted either by the COE or other provider, with each LEA participating as part of the Statewide System of Support improvement process in a PLN. During this process, focus will be placed on examining the root causes of low performance for SWDs or any other identified student group. Following the root cause analysis, proposed actions will be developed by the LEA to ensure that the appropriate next steps to address policies, procedures, and practices specifically affecting the identification and performance of SWDs are being addressed. These strategies should be integrated into the LEA’s LCAP the following year.

- **Universal support for all LEAs:** While the immediate need will be to support LEAs that have been identified as a result of the performance of their SWDs student group, all resources identified, developed, and offered by the Collective will be available to all LEAs. This universal support will focus on highlighting existing state resources and programs, and identifying and evaluating existing research, classroom- and school-level resources and evidence-based practices, and illuminating local policies and practices that may lead to the over-identification and placement of particular groups of students within the SWDs student group.
The Collective will be instrumental in ensuring that a focus on all strands of the work is placed on creating and maintaining positive and welcoming environments within classrooms, schools, and districts to help each student meet their academic and behavioral goals. In preparation for the Fall 2017 Dashboard release, the Collective will initially focus on the following three areas of work:

1. **Identification/Vetting of Existing Resources:** The Collective will work with external partners, including researchers and expert practitioners, to organize existing assets to support LEAs in this work, including the documentation of best practices and policies, classroom instructional tools and materials, professional development resources, assessment practices, and coordinated coaching/training for LEAs. Based on an initial analysis of needs, these efforts may include:
   - Reading literacy supports for students in grades pre-K–3 (including preschool) who: (1) are struggling to meet grade level standards, (2) have gone through a process leading to early identification for intervention (via Student Study Team/Coordination of Services Team [SST/COST] process), or (3) are identified as needing special education supports and services through an individualized education program (IEP)
   - Behavioral support programs for classroom and school populations, (e.g., Positive Behavioral Interventions and Supports [PBIS], and School Wide Positive Behavioral Interventions and Supports [SW-PBIS])
   - Behavioral health programs and tiered supports for student populations experiencing stress due to trauma, or other circumstances

2. **Analysis and Identification of Outperforming LEAs:** An essential element of the Collective’s work will be to identify “bright spot” LEAs that have similar community demographics and student populations, but exhibit a record of sustained outperformance for their SWDs student group. The Collective will convene teams through a PLN, including expert practitioners, administrators, and researchers to do the following:
   - Examine the Dashboard results (led by the CDE) to identify outperforming LEAs to highlight and partner in this work
   - Partner with identified outperforming LEAs to conduct a deeper analysis of the practices, policies, and decision-points that have contributed to successes for their SWDs student group
   - Disseminate findings regularly to the field
   - Contribute new tools/guidance/materials as a result of this work to be added to the resource collection described above

3. **Innovation and Research:** Another critical element of the Collective’s work will be to create opportunities for developing, implementing, and testing innovative practices in an environment that is both practical and measurable. The Collective
will structure this process based on the ongoing work of the CCEE’s Test Kitchen, which facilitates the implementation and refinement of locally led practices, based on the principles of improvement science as described by the Carnegie Foundation:

As the improvement process advances, previously invisible problems often emerge and improvement activities may need to tack in new directions. The objective here is quite different from the traditional pilot program that seeks to offer a proof of concept. Improvement research, in contrast, is a focused learning journey. The overall goal is to develop the necessary know-how for a reform idea ultimately to spread faster and more effectively. Since improvement research is an iterative process often extending over considerable periods of time, it is also referred to as continuous improvement.

The Collective will partner with LEAs that have the capacity to undertake this work to develop, implement, and refine school-wide practices to improve achievement, engagement, and behavior outcomes for SWDs. The Test Kitchen is designed to act as an incubator to emerging best practices, supported by research-based facilitation, to improve the ways in which SWDs are identified, taught, supported, and assessed in schools. In addition to a focus on direct improvements to instructional supports and policy, the Test Kitchen examines the broader task of changing mindset, behavior, and practices that are currently resulting in the disproportionate underperformance of SWDs as identified by the Dashboard.

Specific outcomes for the Test Kitchen include:

- Development of solutions to the specific problem(s) of practice identified by participating LEAs as part of a collaborative process, that can be immediately implemented within their local contexts

- Opportunity for participating LEAs to test promising concepts that build the knowledge base of the field to more effectively identify and address needs associated with SWDs and realize opportunities for student performance gains

- Surfacing of successes, challenges, and potential solutions as a result of the learning and rapid-cycle testing environment that may inform future decision-making to ensure positive outcomes, equity, and greater engagement within our state and local education systems

**Examples of Potential Partners for the Collective**

Led by the CCEE, in collaboration with the CDE, the Collective will work to identify partners among state and intermediary agencies in California, as well as institutes of higher education, research organizations, professional associations, and other non-profit providers. This work will necessarily build on the prior work of the Special Education Task Force, the expertise in the CDE’s Special Education Division, as well as other contributors to this work including, but not limited to, the:
• El Dorado COE (State Systemic Improvement Plan Project)
• Orange and Butte COEs (MTSS SUMS Initiative)
• Napa COE (California Services for Technical Assistance and Training Project and State Performance Plan Technical Assistance Project)
• Sacramento COE (Supporting Early Education Delivery Systems Project)
• Santa Clara COE (Supportive Inclusive Practices Project and the Inclusion Collaborative)

An Example of a CCEE PLN and Pilot

The purpose of the PLNs is to support a deeper understanding of how to effectively use the Dashboard and the LCAP as tools for continuous improvement. There are two levels of networks, both of which are modeled on the concept of professional learning communities. The first level of support networks consists of the PLNs. The PLN hosts (i.e., the entities that operate the PLNs) include COEs, statewide associations, advocacy/equity organizations, community-based organizations, and other non-profit organizations. The second level of support networks consists of the Professional Learning Exchanges (PLXs), the membership of which is the PLN facilitators themselves. The PLXs are facilitated by PLX coaches who are hired or contracted by the CCEE. The PLXs provide collaborative support for the PLN facilitators in their role as facilitators, establish a framework to help “de-silo” the field, connect participants in different PLNs from different parts of the state, and create a structure to aggregate and disseminate information consistently across the state.

From January to June 2017, the CCEE supported 28 Early Adopter PLNs (EAPLNs) and three PLXs for the EAPLN facilitators. The EAPLNs were primarily designed to demonstrate the value of the PLN concept and to help the CCEE learn how to more effectively support the operations of PLNs.

In spring 2017, the CCEE announced that it would be supporting and funding a new batch of PLNs that would last for two years—July 2017 through June 2019. To apply, interested hosts submitted a Letter of Interest (LOI), which was then analyzed based on the publicly available PLN Evaluation Matrix.¹ Using this Matrix, the CCEE evaluated each LOI across various criteria, enabling a multiple measure analysis. The CCEE received almost 70 LOIs and used the Matrix to select 57 PLNs that: (1) reflect the diversity of LEAs across California such as difference in geography, student demographics, LEA type, and LEA size; (2) would allow all LEAs to benefit from the

¹ Information regarding the PLN application process—including the Request for Letters of Interest to Host Professional Learning Networks, the PLN Evaluation Matrix, the Summary of Feedback on PLN Draft Criteria and Requirements, relevant forms, and frequently asked questions—is available at http://www.ccee-ca.org/professional-learning-network.asp.
learnings from the PLNs; and (3) generally ensure fidelity to the statutory requirements set forth in section 46 of Senate Bill No. 828 (2015–16).

Of the 56 PLNs that are currently operating (1 PLN decided not to proceed); 36 are hosted by COEs; 16 are hosted by statewide associations; 8 are hosted by other non-profit organizations; 2 are hosted by charter management organizations; and 1 is the CCEE Pilot PLN which is hosted by the CCEE itself. While the final numbers are still being collected, approximately 300 LEAs and 500 individuals from those LEAs are participating across all PLNs. The CCEE is also currently supporting and funding five PLXs.

The impact of the PLNs will be evaluated by attending PLN meetings, circulating surveys, and establishing focus groups. The PLNs themselves will work with their PLX coaches and the CCEE to identify the metrics and associated outcomes to help evaluate the impact of the PLNs. The CCEE is exploring the possibility of a PLN conference to be held after the two-year period to highlight the experience and learnings from the PLNs. Additionally, the CCEE will work with the California County Superintendents Educational Services Association to create a means to share the learnings specifically from COE-hosted PLNs with other COEs.

PLN Highlight: Lake and Mendocino COEs

The Lake and Mendocino COEs jointly hosted an EAPLN that involved six districts—two from Lake and four from Mendocino. Seven individuals participated from those six districts—six superintendents and one curriculum and instruction director. There were two facilitators—one from Lake and one from Mendocino. Like all EAPLNs, this EAPLN met twice a month. The focus of the EAPLN was on supporting LCAP implementation in rural districts to rigorously tackle equity challenges, with a particular focus on closing the achievement gap of unduplicated student groups.

Although it was only operational for six months, the impact of the PLN was significant.

- The LCAPs of participating districts were significantly better, which led to having their LCAPs approved sooner.
- Some participating districts had previously failed to include actual percentages for Annual Measureable Outcomes in the Goals, Actions & Services section of the LCAP. After participating in the EAPLN, these same districts not only included actual percentages but could articulate why those percentages were chosen. They also reported feeling more accountable for achieving those percentages.
- Districts reported that the PLN was critical in helping them understand and work through the new LCAP template and introduction to the Dashboard.
- The relationship between the participating districts and their COE strengthened through the PLN. Districts reported that they had a voice in the process and it
created a culture of co-learning with the COEs.

- A number of participating superintendents stated that they now understand how to use the LCAP template as a planning tool as opposed to a compliance document.

- Districts in both counties (including some that had not participated in the EAPLN) noted and appreciated the common message that was received from both COEs in response to their LCAP questions, which the COEs attribute to the calibration effect of jointly hosting the PLN.

Due to the positive experience of the Lake-Mendocino EAPLN, six more districts asked to join. In order to maintain the relationship and group dynamic that formed through the EAPLN, Lake COE and Mendocino COE submitted two LOIs to jointly host two different PLNs. Both LOIs were accepted and they now operate one PLN that is a continuation of the EAPLN and a second PLN that contains six other districts and 12 participants (six superintendents, three curriculum and instruction directors, one LCAP director, and two site administrators). The focus of both PLNs is to support LCAP implementation in rural districts to rigorously tackle equity challenges, with a particular focus on closing the achievement gap of unduplicated student groups.

**Sausalito Marin City School District Pilot**

The CCEE’s partnership with the Sausalito Marin City School District began at the request of the Marin COE and since then has become a key partner in collaboration with the district, the COE, and local agencies. Through this collaboration, the CCEE leads the effort in the creation and facilitation of a Community Advisory Committee that is serving as the portal for input and dialogue around the design of a community school model that serves the district’s distinct challenges. This unique community has benefited from the CCEE’s focus on the needs of children while demonstrating a deep appreciation for local context. Because the CCEE is seen by all stakeholders as a neutral and independent party, they have helped to elevate the work beyond socio-political differences by reinforcing the focus on the needs of children, especially those who need it the most. Moreover, the CCEE’s involvement has provided a level of confidence and assurance that the State not only cares about its struggles but is willing to invest in its transformation.
**Updated Timeline for Differentiated Assistance Fall 2017–18**

<table>
<thead>
<tr>
<th>Month</th>
<th>Tasks</th>
</tr>
</thead>
</table>
| October 2017 | - Secure and advertise Webinars with local educational agency (LEA) staff and stakeholders on the California School Dashboard (Dashboard), indicators and data years, and overview of assistance/support.  
- Preview toolkit to be released to support communications about Dashboard and system of support at the local level.  
- Finalize content for Dashboard and agency Web sites related to differentiated assistance for Fall 2017 Dashboard release. |
| November 2017 | - Cross agency group continues stakeholder engagement and presentations on California’s system of support.  
- LEA preview of Dashboard begins.  
- Academic Indicator data added to LEA preview based on State Board of Education (SBE) action at November meeting.  
- County superintendents contact districts eligible for differentiated assistance based on Fall Dashboard data.  
- Cross agency group sends joint notification to districts eligible for differentiated assistance.  
- Districts receiving differentiated assistance provided opportunity to engage with key stakeholders prior to public Dashboard release.  
- Final toolkit released to LEAs (including communication staff, LEA leaders, and Dashboard coordinators) and stakeholders. |
| December 2017 | - Dashboard Web site goes public (approximately the week of November 27).  
- County superintendents and districts identified for differentiated assistance begin needs-identification process. |
| Spring 2018   | - Differentiated assistance continues, in conjunction with Local Control and Accountability Plan development for districts receiving differentiated assistance.  
- Cross agency group gathers feedback on improvement efforts.  
- California Department of Education provides SBE update on Dashboard development at March 2018 meeting. |
SUBJECT

Update on Issues Related to California's Implementation of the Elementary and Secondary Education Act and Other Federal Programs.

SUMMARY OF THE ISSUE(S)

This standing item allows the California Department of Education (CDE) to brief the State Board of Education (SBE) on timely topics related to the Elementary and Secondary Education Act (ESEA) and other federal programs.

Local Control and Accountability Plan (LCAP) Federal Addendum

The Every Student Succeeds Act (ESSA) requires local educational agencies (LEAs) to complete a Local Educational Agency Plan (LEA Plan) that addresses required provisions of ESSA programs under which an LEA applies for federal education funds. LEAs that apply for ESSA funds will be required to complete a LCAP Federal Addendum (Addendum) (Attachment 1) and the Consolidated Application. The Addendum, in conjunction with the Consolidated Application, will serve as the ESSA LEA Plan.

Consistent with the intent of California Education Code (EC) Section 52064, the Addendum allows an LEA to complete a single LCAP to meet both state and federal requirements, align state and federal resources, and help minimize duplication of effort at the local level. It is anticipated that LEAs will be required to update and submit their Addendum every three years, consistent with the three year LCAP cycle (Insert link to October Memo here). The Addendum addresses the required provisions of the following ESSA programs:

- Title I, Part A: Improving Basic Programs Operated by State and Local Educational Agencies
- Title I, Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk
- Title II, Part A: Supporting Effective Instruction
• Title III, Part A: Language Instruction for English Learners and Immigrant Students

• Title IV, Part A: Student Support and Academic Enrichment Grants

_Initial Addendum Development_

The CDE, with support from the California Comprehensive Center at WestEd, convened LEA representatives to assist in designing a new approach to meet federal planning requirements within the context of the LCAP process. Upon review of the required Addendum provisions, LEA representatives agreed that a well-written LCAP addresses many of the federal provisions. The team cross-referenced ESSA provisions with the Local Control Funding Formula (LCFF) state priorities and identified those LCFF priorities that potentially meet ESSA provisions. Those priorities are identified within the Addendum Template along with the provision that it addresses.

_Stakeholder Involvement in Development of LCAP Federal Addendum_

The CDE continues to collect feedback from stakeholders. The California Practitioners Advisory Group is scheduled to provide input at its December meeting. Stakeholder engagement events are being scheduled for October and December. Two surveys are being prepared, one by the State Title III leads and another statewide survey similar in design to the LCAP redesign survey that was conducted in February 2017.

The Addendum is also being field tested with several county offices of education and school districts in the 2017–18 school year. If approved by the SBE, the Addendum will be fully implemented for those LEAs that apply for ESSA funds during the 2018–19 school year. LEAs will continue to use the Consolidated Application as the vehicle to document participation in federal programs and meet the annual reporting requirements of each program.

**ESSA: LEA and state report card per-pupil expenditure reporting requirement**

ESSA requires LEAs to report LEA and school-level per-pupil spending on personnel and non-personnel costs, disaggregated by funding source – state, local, and federal – in their local ESSA report cards. The CDE must also include this expenditure information in its state-level ESSA report card. The U.S. Department of Education (ED) initially developed regulations that would have required the CDE to create a uniform methodology for calculating LEA and school-level per-pupil expenditures; however, those regulations were subsequently repealed by the Congressional Review Act. In lieu of regulations, the ED is now expected to issue non-regulatory guidance later this fall to assist states with implementing the per-pupil expenditure reporting requirement. While details of those guidelines are not yet known, the ED may leverage an existing federal data collection, the School-Level Finance Survey, as a model states may use to develop a per-pupil expenditure calculation methodology.

The CDE expects that LEAs will be able to comply with the new ESSA per-pupil expenditure reporting requirements and guidelines without having a complex methodology imposed. Mandated complex requirements could lead to more
administrative costs and less money for the classroom. The CDE will evaluate the ED’s guidance when it is issued, anticipated in fall.

**California State Performance Plan and the Annual Performance Report**

To meet federal requirements under the Individuals with Disabilities Education Act (IDEA), the CDE will present the California State Performance Plan and the Annual Performance Report (SPP/APR) to the board for approval in January and March. The January board item will include SPP/APR indicators 1-16 which are: Graduation, Dropout, Assessment, Suspension, Least Restrictive Environment, Early Childhood data, Disproportionality, Compliance, and Post-School Outcomes for students with disabilities for the Federal Fiscal Year 2016. The CDE will present the state’s progress and achievement of students with disabilities in the described indicators and the steps that the CDE has taken to improve compliance and performance for this subgroup of students.

In March, the CDE will present for approval Indicator 17 of the SPP/APR, also known as the State Systemic Improvement Plan (SSIP). This plan will detail the steps the CDE has taken and plans to take to align its monitoring and technical assistance practices to support the greater accountability system in California as well as improve student performance and outcomes. This includes supporting LEAs in using a multi-tiered system of support framework to create more inclusive environments for all students. Approval of the two items (SPP/APR Indicators 1-16 and the SSIP) by the State Board of the Education and submission to the US Department of Education are required to ensure continued federal funding under IDEA.

**RECOMMENDATION**

The CDE recommends that the SBE take action as deemed necessary and appropriate. No specific action is recommended at this time.

**BRIEF HISTORY OF KEY ISSUES**

The ESSA was signed into law by President Barack Obama on December 10, 2015, and went into effect in the 2017–18 school year. The ESSA reauthorizes the Elementary and Secondary Education Act (ESEA), the nation’s federal education law, and replaces the No Child Left Behind Act (NCLB).

ESSA requires LEAs to develop plans as a condition of receiving local subgrants. California’s ESSA state consolidated plan requires LEAs to submit an Addendum, which addresses all of the local planning requirements under ESSA and serves as the LEA Plan required by ESSA.

**SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

The SBE approved the state plan at its September 2017 meeting. The ED notified the SBE that California’s consolidated state plan was received on September 18, 2017 and...
was complete in its response to all of the revised requirements. The SBE/CDE will be notified by the ED once California’s state plan is approved.

FISCAL ANALYSIS (AS APPROPRIATE)

Any state or LEA that does not abide by the mandates or provisions of ESEA is at risk of losing federal funding. LEAs must apply to receive ESSA funds using the LCAP Federal Addendum in conjunction with the Consolidated Application.

ATTACHMENT(S)

Attachment 1: Local Control and Accountability Plan Federal Addendum Template (35 pages)
2018–20 DRAFT
Local Control and Accountability Plan (LCAP)
Every Student Succeeds Act (ESSA)
Federal Addendum Template

LEA name: [ ]

CDS code: [ ]

Link to the LCAP: [ ]
(optional)

Links to other documents: [ ]
(optional)

Which ESSA programs apply to your local educational agency (LEA)?

1. Check all that apply.
2. In the following pages, ONLY complete the sections that correspond to your selections.

- TITLE I, PART A
  Improving Basic Programs Operated by State and Local Educational Agencies

- TITLE I, PART D
  Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk

- TITLE II, PART A
  Supporting Effective Instruction

- TITLE III, PART A
  Language Instruction for English Learners and Immigrant Students

- TITLE IV, PART A
  Student Support and Academic Enrichment Grants

(NOTE: This list only includes ESSA programs with LEA plan requirements; not all ESSA programs.)
Instructions

The LCAP Federal Addendum is meant to supplement the LCAP to ensure that eligible LEAs have the opportunity to meet the Local Educational Agency (LEA) Plan provisions of the ESSA.

The LCAP Federal Addendum Template must be completed and submitted to the California Department of Education (CDE) to apply for ESSA funding. LEAs are encouraged to review the LCAP Federal Addendum annually with their LCAP, as ESSA funding should be considered in yearly strategic planning.

The LEA must address the Strategy and Alignment prompts provided on the following page.

Each provision for each program must be addressed, unless the provision is not applicable to the LEA.

In addressing these provisions, LEAs have the option of:

- referring to where a provision is addressed in their LCAP;
- referring to where a provision is addressed in a different document; or
- providing a narrative that addresses the provision within the LCAP Federal Addendum Template.

Under State Priority Alignment, state priority numbers are provided to demonstrate where an ESSA provision aligns with state priorities. This is meant to assist LEAs in determining where ESSA provisions may already be addressed in the LEA’s LCAP, as it demonstrates the LEA’s efforts to support the state priorities.

The CDE emphasizes that the LCAP Federal Addendum should not drive LCAP development. ESSA funds are supplemental to state funds, just as the LCAP Federal Addendum supplements your LCAP. LEAs are encouraged to integrate their ESSA funds into their LCAP development as much as possible to promote strategic planning of all resources; however, this is not a requirement. In reviewing the LCAP Federal Addendum, staff will evaluate the LEA’s responses to the ESSA plan provisions. There is no standard length for the responses. LEAs will be asked to clarify insufficient responses during the review process.
California’s ESSA State Plan significantly shifts the state’s approach to the utilization of federal resources in support of underserved student groups. This LCAP Federal Addendum provides LEAs with the opportunity to document their approach to maximizing the impact of federal investments in support of underserved students.

The implementation of ESSA in California presents an opportunity for LEAs to innovate with their federally-funded programs and align them with the priority goals they are realizing under the state’s Local Control Funding Formula (LCFF).

LCFF provides LEAs flexibility to design programs and provide services that meet the needs of students in order to achieve readiness for college, career, and lifelong learning. The LCAP planning process supports continuous cycles of action, reflection, and improvement.

Please respond to the prompts below, and in the pages that follow, to describe the LEA’s plan for making the best use of federal ESEA resources in alignment with other federal, state, and local programs as described in the LEA’s LCAP.

**Strategy**

Explain the LEA’s strategy for using federal funds to supplement and enhance local priorities or initiatives funded with state funds, as reflected in the LEA’s LCAP. This shall include describing the rationale/evidence for the selected use(s) of federal funds within the context of the LEA’s broader strategy reflected in the LCAP.

**Alignment**

Describe the efforts that the LEA will take to align use of federal funds with activities funded by state and local funds and, as applicable, across different federal grant programs.
### Monitoring Student Progress Towards Meeting Challenging State Academic Standards

Describe how the LEA will monitor students’ progress in meeting the challenging State academic standards by:

- (A) developing and implementing a well-rounded program of instruction to meet the academic needs of all students;
- (B) identifying students who may be at risk for academic failure;
- (C) providing additional educational assistance to individual students the LEA or school determines need help in meeting the challenging State academic standards; and
- (D) identifying and implementing instructional and other strategies intended to strengthen academic programs and improve school conditions for student learning.

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- [ ] THIS DOCUMENT  Address the provision in the space below.

- [ ] N/A: This provision does not apply.
### Educator Equity

Describe how the LEA will identify and address, as required under State plans as described in Section 1111(g)(1)(B), any disparities that result in low-income students and minority students being taught at higher rates than other students by ineffective, inexperienced, or out-of-field teachers. (Select N/A if your LEA is a charter school or COE, or your district’s educator equity data does not demonstrate disparities)

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<tr>
<td>2</td>
<td>1112(b)(2)</td>
<td>1 (if applicable)</td>
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- [ ] THIS DOCUMENT
  - Address the provision in the space below.
- [ ] N/A: This provision does not apply.
Title I, Part A

Parent and Family Engagement

Describe how the LEA will carry out its responsibility under Section 1111(d).

Describe the strategy the LEA will use to implement effective parent and family engagement under Section 1116.

This ESSA provision is addressed in:

☐ LCAP

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Address the provision in the space below.

☐ N/A: This provision does not apply.
## Poverty Criteria

Describe the poverty criteria that will be used to select school attendance areas under Section 1113.

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- [ ] LCAP     GOAL/ACTION #:   PAGE
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- [x] THIS DOCUMENT     Address the provision in the space below.
- [x] N/A: This provision does not apply.

### PROVISION # | ESSA SECTION | STATE PRIORITY ALIGNMENT
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4 | 1112(b)(4) | N/A
TITLE I, PART A

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<td>5</td>
<td>1112(b)(5) and 1112(b)(9)</td>
<td>N/A</td>
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**Schoolwide Programs, Targeted Support Programs, and Programs for Neglected or Delinquent Children**

Describe, in general, the nature of the programs to be conducted by the LEA’s schools under sections 1114 and 1115 and, where appropriate, educational services outside such schools for children living in local institutions for neglected or delinquent children, and for neglected and delinquent children in community day school programs.

Describe how teachers and school leaders, in consultation with parents, administrators, paraprofessionals, and specialized instructional support personnel, in schools operating a targeted assistance school program under Section 1115, will identify the eligible children most in need of services under this part.

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<td>6</td>
<td>1112(b)(6)</td>
<td>N/A</td>
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</table>

Homeless Children and Youth Services

Describe the services the LEA will provide homeless children and youths, including services provided with funds reserved under Section 1113(c)(3)(A), to support the enrollment, attendance, and success of homeless children and youths, in coordination with the services the LEA is providing under the McKinney-Vento Homeless Assistance Act (42 United States Code 11301 et seq.).

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<td>7</td>
<td>1112(b)(8), 1112(b)(10), and 1112(b)(10) (A–B)</td>
<td>N/A</td>
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</table>

#### Student Transitions

Describe, if applicable, how the LEA will support, coordinate, and integrate services provided under this part with early childhood education programs at the LEA or individual school level, including plans for the transition of participants in such programs to local elementary school programs.

Describe, if applicable, how the LEA will implement strategies to facilitate effective transitions for students from middle grades to high school and from high school to postsecondary education including:

(A) coordination with institutions of higher education, employers, and other local partners; and

(B) increased student access to early college high school or dual or concurrent enrollment opportunities, or career counseling to identify student interests and skills.

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<td>8</td>
<td>1112(b)(11)</td>
<td>6 (if applicable)</td>
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### Overuse in Discipline Practices that Remove Students from the Classroom

Describe how the LEA will support efforts to reduce the overuse of discipline practices that remove students from the classroom, which may include identifying and supporting schools with high rates of discipline, disaggregated by each of the student groups, as defined in Section 1111(c)(2).

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- [ ] THIS DOCUMENT  
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- [ ] N/A: This provision does not apply.
TITLE I, PART A

Career Technical and Work-based Opportunities

If determined appropriate by the LEA, describe how such agency will support programs that coordinate and integrate:

(A) academic and career and technical education content through coordinated instructional strategies, that may incorporate experiential learning opportunities and promote skills attainment important to in-demand occupations or industries in the State; and

(B) work-based learning opportunities that provide students in-depth interaction with industry professionals and, if appropriate, academic credit.

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<td>10</td>
<td>1112(b)(13) (A–B)</td>
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</table>

### Additional Information Regarding Use of Funds Under this Part

Provide any other information on how the LEA proposes to use funds to meet the purposes of this part, and that the LEA determines appropriate to provide, which may include how the LEA will:

(A) assist schools in identifying and serving gifted and talented students; and

(B) assist schools in developing effective school library programs to provide students an opportunity to develop digital literacy skills and improve academic achievement.

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- [ ] N/A: This provision does not apply.
TITLE I, PART D

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1            1423(1)         N/A

Description of Program
Provide a description of the program to be assisted.

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<td>1423(2)</td>
<td>N/A</td>
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Formal Agreements

Provide a description of formal agreements, regarding the program to be assisted, between the LEA and correctional facilities and alternative school programs serving children and youth involved with the juvenile justice system, including such facilities operated by the Secretary of the Interior and Indian tribes.

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☐ N/A: This provision does not apply.
## Comparable Education Program

As appropriate, provide a description of how participating schools will coordinate with facilities working with delinquent children and youth to ensure that such children and youth are participating in an education program comparable to one operating in the local school such youth would attend.

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- **N/A:** This provision does not apply.
### Successful Transitions

Provide a description of the program operated by participating schools to facilitate the successful transition of children and youth returning from correctional facilities and, as appropriate, the types of services that such schools will provide such children and youth and other at-risk children and youth.

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<td>1423(5)</td>
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Educational Needs

Provide a description of the characteristics (including learning difficulties, substance abuse problems, and other special needs) of the children and youth who will be returning from correctional facilities and, as appropriate, other at-risk children and youth expected to be served by the program, and a description of how the school will coordinate existing educational programs to meet the unique educational needs of such children and youth.

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<td>1423(6)</td>
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### Social, Health, and Other Services

As appropriate, provide a description of how schools will coordinate with existing social, health, and other services to meet the needs of students returning from correctional facilities, at-risk children or youth, and other participating children or youth, including prenatal health care and nutrition services related to the health of the parent and the child or youth, parenting and child development classes, child care, targeted reentry and outreach programs, referrals to community resources, and scheduling flexibility.

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<td>1423(7)</td>
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**Postsecondary and Workforce Partnerships**

As appropriate, provide a description of any partnerships with institutions of higher education or local businesses to facilitate postsecondary and workforce success for children and youth returning from correctional facilities, such as through participation in credit-bearing coursework while in secondary school, enrollment in postsecondary education, participation in career and technical education programming, and mentoring services for participating students.

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<td>1423(8)</td>
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## Parent and Family Involvement

As appropriate, provide a description of how the program will involve parents and family members in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement.

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- [ ] LCAP  
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  - Address the provision in the space below.

- [ ] N/A: This provision does not apply.
### Program Coordination

Provide a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under title I of the Workforce Innovation and Opportunity Act and career and technical education programs serving at-risk children and youth. Include how the program will be coordinated with programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable.

This provision does not apply.

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- **N/A:** This provision does not apply.
Probation Officer Coordination

As appropriate, provide a description of how schools will work with probation officers to assist in meeting the needs of children and youth returning from correctional facilities.

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<td>1423(12)</td>
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### Individualized Education Program Awareness

Provide a description of the efforts participating schools will make to ensure correctional facilities working with children and youth are aware of a child's or youth's existing individualized education program.

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<td>1423(13)</td>
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**Alternative Placements**

As appropriate, provide a description of the steps participating schools will take to find alternative placements for children and youth interested in continuing their education but unable to participate in a traditional public school program.

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<td>1</td>
<td>2102(b)(2)(A)</td>
<td>1, 2, 4 (if applicable)</td>
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### Title II, Part A Activities

Provide a description of the activities to be carried out by the LEA under this Section and how these activities will be aligned with challenging State academic standards.

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- [ ] N/A: This provision does not apply.
### Professional Growth and Improvement

Provide a description of the LEA’s systems of professional growth and improvement, such as induction for teachers, principals, or other school leaders and opportunities for building the capacity of teachers and opportunities to develop meaningful teacher leadership.

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<tr>
<td>3</td>
<td>2102(b)(2)(C)</td>
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### Prioritizing Funding

Provide a description of how the LEA will prioritize funds to schools served by the agency that are implementing comprehensive support and improvement activities and targeted support and improvement activities under Section 1111(d) and have the highest percentage of children counted under Section 1124(c).

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<td>4</td>
<td>2102(b)(2)(D)</td>
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Data and Ongoing Consultation to Support Continuous Improvement

Provide a description of how the LEA will use data and ongoing consultation described in Section 2102(b)(3) to continually update and improve activities supported under this part.

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- [ ] N/A: This provision does not apply.
# TITLE III, PART A

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<td>1</td>
<td>3115(c)(2)</td>
<td>1, 2, 7 (if applicable)</td>
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## Title III Professional Development

Describe how the eligible entity will provide effective professional development to classroom teachers, principals and other school leaders, administrators, and other school or community-based organizational personnel.

### THIS ESSA PROVISION IS ADDRESSED IN:

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- [ ] N/A: This provision does not apply.
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<td>3116(b)(1)</td>
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### Title III Programs and Activities

Describe the effective programs and activities, including language instruction educational programs, proposed to be developed, implemented, and administered under the subgrant that will help English learners increase their English language proficiency and meet the challenging State academic standards.

### THIS ESSA PROVISION IS ADDRESSED IN:

- [ ] LCAP   GOAL/ACTION #: PAGE
- [ ] ANOTHER DOCUMENT   DOCUMENT: PAGE
- [ ] THIS DOCUMENT   Address the provision in the space below.
- [ ] N/A: This provision does not apply.
TITLE III, PART A

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<tr>
<td>3</td>
<td>3116(b)(2)(A–B)</td>
<td>1, 2, 3, 4, 6, 7, 8 (if applicable)</td>
</tr>
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</table>

**English Proficiency and Academic Achievement**

Describe how the eligible entity will ensure that elementary schools and secondary schools receiving funds under Subpart 1 assist English learners in:

(A) achieving English proficiency based on the State’s English language proficiency assessment under Section 1111(b)(2)(G), consistent with the State’s long-term goals, as described in Section 1111(c)(4)(A)(ii); and

(B) meeting the challenging State academic standards.

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### TITLE III, PART A

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<td>4</td>
<td>3116(b)(3)</td>
<td>3, 6 (if applicable)</td>
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**Parent, Family, and Community Engagement**

Describe how the eligible entity will promote parent, family, and community engagement in the education of English learners.

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## TITLE III, PART A

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<td>3115(e) (1) 3116</td>
<td>1, 2, 3, 4, 5, 6, 7, 8 (if applicable)</td>
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### Enhanced Instructional Opportunities

Describe how the eligible entity will provide enhanced instructional opportunities for immigrant children and youth.

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## TITLE IV, PART A

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<tbody>
<tr>
<td>1</td>
<td>1112(b)(8), 1112(b)(10), and 1112(b)(10) (A–B)</td>
<td>1, 2, 4, 7, 8 (if applicable)</td>
</tr>
</tbody>
</table>

### Title IV, Part A Activities and Programs

Describe the activities and programming that the LEA, or consortium of such agencies, will carry out under Subpart 1, including a description of:

- (A) any partnership with an institution of higher education, business, nonprofit organization, community-based organization, or other public or private entity with a demonstrated record of success in implementing activities under this subpart;
- (B) if applicable, how funds will be used for activities related to supporting well-rounded education under Section 4107 ([http://bit.ly](http://bit.ly));
- (C) if applicable, how funds will be used for activities related to supporting safe and healthy students under Section 4108;
- (D) if applicable, how funds will be used for activities related to supporting the effective use of technology in schools under Section 4109; and
- (E) the program objectives and intended outcomes for activities under Subpart 1, and how the LEA, or consortium of such agencies, will periodically evaluate the effectiveness of the activities carried out under this section based on such objectives and outcomes.

### THIS ESSA PROVISION IS ADDRESSED IN:

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PRESENTATION BY WESTED: CALIFORNIA STANDARDS IMPLEMENTATION -- WHAT EDUCATORS ARE SAYING

SUMMARY OF THE ISSUE(S)

Since 2015, with sponsorship from the California State Board of Education (SBE), WestEd has reported on surveys and focus groups with California educators about the ongoing implementation of the California Common Core State Standards in English language arts (ELA) and mathematics and associated supports. This presentation by WestEd's Reino Makkonen and Robert Sheffield will summarize findings from recent surveys administered to California teachers alongside lessons learned from related ongoing research and technical assistance initiatives. Key findings include increased site-based, collaborative professional learning and peer observation reported among California's teachers, as well as shifting approaches to standards-aligned materials among teachers and leaders.

RECOMMENDATION

This item is being presented for information only.

BRIEF HISTORY OF KEY ISSUES

In 2010, the SBE adopted new standards in mathematics and English language arts and Literacy in History/ Social Studies, Science, and Technical Subjects. In 2012, the Common Core State Standards (CCSS) Systems Implementation Plan was unanimously approved by the SBE.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

WestEd previously presented to the SBE on its findings regarding standards implementation in March of 2016.
FISCAL ANALYSIS (AS APPROPRIATE)

Not applicable.

ATTACHMENT(S)

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2017 AGENDA

SUBJECT

California Assessment of Student Performance and Progress: Approve California Science Test Blueprint, General Achievement Level Descriptors, and Score Reporting Structure; and Approve California Spanish Assessment Blueprint, General Achievement Level Descriptors, and Score Reporting Structure.

☐ Action
☐ Information
☐ Public Hearing

SUMMARY OF THE ISSUE(S)

In March 2016, the State Board of Education (SBE) approved the high-level test design (HLTD) for the California Science Test (CAST) to measure the full range of the California Next Generation Science Standards (CA NGSS). The design requires that all students in the tested grades participate in three test segments. The CAST, administered pursuant to California Education Code (EC) Section 60640(b)(2)(B) and aligned with the CA NGSS, is administered to students in grades five and eight and once in high school (i.e., grade ten, eleven, or twelve). The development of the draft CAST blueprint has focused on integrating the Disciplinary Core Ideas, Science and Engineering Practices, and Crosscutting Concepts. In accordance with the HLTD, each test item will align with at least two of the three dimensions (i.e., Disciplinary Core Ideas, Science and Engineering Practices, and Crosscutting Concepts). The draft CAST general achievement level descriptors (ALDs) and a draft score reporting structure also have been developed for SBE approval. The ALDs provide guidance to stakeholders in score interpretation and will assist in the development of subsequent descriptors; whereas, the score reporting structure details the reporting at the student level.

In September 2016, the SBE approved the California Spanish Assessment (CSA) HLTD pursuant to EC Section 60640(b)(5)(C). The approval of the HLTD commenced the development of the CSA, including the blueprint and ALDs. The draft CSA test blueprint reflects the number of score points needed to appropriately sample the Common Core State Standards (CCSS) en Español and provides appropriate measurement while ensuring that testing time is used as efficiently as possible. In addition, the ALDs assist students, parents/guardians, and educators in understanding scores on the CSA and communicate a student’s progress toward Spanish literacy by the time a student graduates from high school.
RECOMMENDATION

The California Department of Education (CDE) recommends that the SBE approve and request that CDE staff make technical edits, as necessary, to the following draft CAST-related test development documents:

- Blueprint (see Attachment 1)
- General ALDs (see Attachment 2)
- Score reporting structure (see Figure 1)

Furthermore, the CDE recommends that the SBE approve and request that CDE staff make technical edits, as necessary, to the following draft CSA-related test development documents:

- Blueprint (see Attachment 3)
- General ALDs (see Attachment 4)
- Score reporting structure (see Figure 2)

BRIEF HISTORY OF KEY ISSUES

California Science Test

The CAST is part of the California Assessment of Student Performance and Progress (CAASPP) System. Table 1 displays the timeline for the development of the CAST. Pursuant to the SBE-approved HLTD, the CAST is administered to all students in grades five and eight and once in high school (i.e., grade ten, eleven, or twelve). The CAST includes three segments, as shown in Table 2 below.

Table 1: CAST Timeline

<table>
<thead>
<tr>
<th>Development Activity</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pilot Test</td>
<td>Spring 2017</td>
</tr>
<tr>
<td>Field Test</td>
<td>Spring 2018</td>
</tr>
<tr>
<td>Operational</td>
<td>Spring 2019</td>
</tr>
</tbody>
</table>
Table 2: CAST Segment Descriptions

<table>
<thead>
<tr>
<th>Segment</th>
<th>Segment A</th>
<th>Segment B</th>
<th>Segment C</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Scope and Depth of Measurement</strong></td>
<td>Wide breadth—measures a broad sample of Performance Expectations</td>
<td>Deep—measures a targeted sample of a few Performance Expectations provided in item sets</td>
<td>Broad and deep—measures a full range of Performance Expectations for each grade span</td>
</tr>
</tbody>
</table>

| Performance Expectations Measured by Grade/Grade Span | Grade 5: Grades 3–5*<br>Grade 8: Grades 6–8<br>High school: grade-span | Grade 5: Grades 3–5*<br>Grade 8: Grades 6–8<br>High School: grade-span | Grade 5: Grades 3–5*<br>Grade 8: Grades 6–8<br>High School: grade-span |

*Includes foundational concepts that are addressed in kindergarten through grade two (K–2).

The CDE, in collaboration with Educational Testing Service (ETS), continues the development of the CAST. The draft CAST blueprint, general ALDs, and score reporting structure play a large role in bringing the development of the CAST closer to the operational phase.

**Blueprint**

A test blueprint documents the content standards to be measured using the assessment. The CAST blueprint reflects the depth, breadth, and rigor of the CA NGSS and its multidimensional aspects. In the development of the blueprint, the CDE, in collaboration with ETS, has engaged in discussions with national science experts Jim Pellegrino and Kathleen Scalise, California science educators who participated in item writing and review committees, and various stakeholder groups, such as the CAASPP Technical Advisory Group (TAG).

The CAST includes three content domains (Physical Sciences, Life Sciences, and Earth and Space Sciences), each accounting for approximately 33 percent of the test. Additionally, the CAST includes the content domain of Engineering, Technology, and Application of Science. Approximately 10 percent of the test will measure the Engineering, Technology, and Application of Science in the context of one of the three content domains. Given the limited number of Performance Expectations associated with the Engineering, Technology, and Application of Science domain, there is not sufficient content to support a stand-alone domain.

The CAST blueprint has been developed to align with the SBE-approved HLTD, with a few exceptions listed below:

- **Recommendation to expand Performance Expectations to those outside of grade five (Segments A and B).** The SBE-approved HLTD included only grade five Performance Expectations in the student score for that assessment. The CDE, in collaboration with ETS, recommends that the grade five test be based on the Performance Expectations in grades three through five. By assessing the CA NGSS in grades three through five, there will be 39 Disciplinary Core Ideas
addressed; whereas, grade five addresses only 15 Disciplinary Core Ideas, a difference of 24 Disciplinary Core Ideas.

- **Recommendation to align the grade five Segment C to Performance Expectations in grades three through five.** All Disciplinary Core Ideas that are covered in the CA NGSS kindergarten through grade two band also are covered in the grades three through five band. Therefore, student learning of the CA NGSS in kindergarten, grade one, and grade two will be indirectly assessed, as the kindergarten through grade two CA NGSS provide foundational instruction for the science content included in the CA NGSS for grades three through five.

- **Recommendation to modify the performance task selection to allow for either integrated or single domain.** Performance tasks are phenomena-based and therefore may include Performance Expectations from one or two domains. According to the draft blueprints, students would receive performance tasks that vary in terms of context or domain.

### General Achievement Level Descriptors

The CAST general ALDs (sometimes referred to as policy ALDs) provide generic descriptions of student performance level expectations across four levels (see Attachment 2). The general ALDs will be used to set grade-level specific ALDs and will be used to develop reporting ALDs that describe levels of performance to educators, students, and parents. ETS worked with California science educators and CAASPP TAG to review the general ALDs.

### Score Reporting Structure

The CAST student score reporting structure shown below includes an overall scale score with four achievement levels. Additionally, the student score reporting structure includes the three-dimensional (3-D) domains of Life Sciences, Physical Sciences, and Earth and Space Sciences. Assessment items measuring Performance Expectations from the Engineering, Technology, and Application of Science CA NGSS domain will be set in the context of Life Sciences, Physical Sciences, or Earth and Space Sciences and those items will be reported according to one of those three domains shown in the reporting structure. Data from the field test administration of the CAST will be used to evaluate the reliability of the score reporting structure and changes, if necessary, will be brought to the SBE following that analysis. The CDE and ETS will continue to explore other reliable reporting for SBE consideration.
California Spanish Assessment

The CDE, in collaboration with ETS, continues the development of the CSA. The draft CSA blueprint, general ALDs, and score reporting structure have undergone a thorough review by national language experts and stakeholders. These three items play a large role in bringing the CDE’s development of the CSA closer to the operational phase. Table 3 displays the timeline for the development of the CSA.

Table 3: CSA Timeline

<table>
<thead>
<tr>
<th>Development Activity</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pilot Test</td>
<td>Fall 2017</td>
</tr>
<tr>
<td>Field Test</td>
<td>Fall 2018</td>
</tr>
<tr>
<td>Operational</td>
<td>Spring 2019</td>
</tr>
</tbody>
</table>

The CSA is a voluntary assessment designed for students in grades three through eight and high school who are receiving instruction in Spanish and/or those who are seeking a measure that recognizes their Spanish-specific reading, writing, and listening skills. The CSA is aligned with the CCSS en Español, a translation of the CCSS for English language arts/literacy, with linguistic augmentations specific to the Spanish language, and are intended to guide the instruction of Spanish reading/language arts. Once the CSA is developed, it will replace the Standards-based Tests in Spanish (STS) as the CAASPP primary language assessment.

In September 2016, the SBE approved the CSA HLTD, inclusive of the following purposes:

- To measure a student’s competency in Spanish reading/language arts and provide student-level data;
- To evaluate the implementation of Spanish reading/language arts programs at the local level; and
- To provide a high school measure suitable to be used, in part, for the State Seal of Biliteracy.
The CDE, in collaboration with ETS, continues the development of the CSA.

Blueprint

The draft CSA blueprint details the number of items and points by claims and content standard for the CSA (see Attachment 3). The blueprint also identifies the grade and grade band tested and is organized by the three domains assessed: Reading, Writing Mechanics, and Listening. Item counts and point values may be adjusted further during future stages of the CSA design and development effort. This would take into consideration the evaluation of pilot test results as well as the analyses of statistics of both the first field test and the first operational administration of the CSA.

Key points on the content of the draft blueprint are as follows:

• The linguistic augmentations included in the CCSS en Español are included in the blueprint.

• Per EC Section 60640(b)(5)(F), the primary language assessment (i.e., the CSA) shall be operative only to the extent that funding is provided in the annual Budget Act. Due to limited funds, the draft blueprint for the CSA does not include full-write constructed-response (CR) items for the Writing domain; rather, the Writing domain will consist of writing mechanics items that can be machine-scored.

• The draft CSA blueprint does not include Speaking items; Speaking is to be assessed at the local level.

The draft CSA blueprint and general ALDs were reviewed and input was provided by Kenji Hakuta and Guadalupe Valdes, as well as California educators, and the CAASPP TAG.

General Achievement Level Descriptors

The draft CSA general ALDs (sometimes referred to as policy ALDs) provide generic descriptions of student performance level expectations across three levels (see Attachment 4). The general ALDs will be used to set grade level specific ALDs and will also be used to develop reporting ALDs that describe levels of performance to educators, students, and parents.

Score Reporting Structure

The draft CSA student score reporting structure shown in Figure 2 below includes an overall scale score with three achievement levels. Additionally, the student score reporting structure includes the domains of Reading, Writing Mechanics, and Listening. Data from the field test administration of the CSA will be used to evaluate the reliability of the score reporting structure and changes, if necessary, will be brought to the SBE following that analysis.
SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In October 2017, the CDE provided the SBE with an Information Memorandum that included updates on the CAASPP System.
(https://www.cde.ca.gov/be/pn/im/documents/memo-pptb-avad-oct17item02.doc)

In September 2016, the SBE approved the CSA HLTD, including the test purpose (https://www.cde.ca.gov/be/ag/ag/main201609.asp).

In March 2016, the SBE approved the CAST HLTD (https://www.cde.ca.gov/be/ag/ag/main201603.asp).
In January 2016, November 2015, and September 2015, the CDE provided the SBE with updates on the CA NGSS assessments:
(https://www.cde.ca.gov/be/ag/ag/yr16/documents/jan16item03.doc)
(https://www.cde.ca.gov/be/ag/ag/yr15/documents/nov15item03.doc)

In July 2015, June 2015, and May 2015, the CDE provided the SBE with updates on the CA NGSS assessments:
(https://www.cde.ca.gov/be/ag/ag/yr15/documents/jul15item03.doc)
(https://www.cde.ca.gov/be/pn/im/documents/memo-dsib-avad-jun15item03.doc)
(https://www.cde.ca.gov/be/ag/ag/yr15/documents/may15item02.doc).

In May 2015, the SBE designated ETS as the CAASPP contractor for the 2015–16, 2016–17, and 2017–18 test administrations, including the development, pilot testing, and field testing of three new CA NGSS science assessments (including the CA NGSS alternate assessment for students with the most significant cognitive disabilities) in the grades and content areas to be approved by the SBE. This included a new primary language assessment aligned to the CCSS.
(https://www.cde.ca.gov/be/ag/ag/yr15/documents/may15item01.doc)

FISCAL ANALYSIS (AS APPROPRIATE)

The costs for the development of the CAST and CSA, including the development of the draft blueprints, draft general ALDs, and draft score reporting structure for both
assessments are included in the approved ETS CAASPP contract budget approved by the SBE, the CDE, and the Department of Finance in July 2017.

The 2017 Budget Act includes $77,273,778 million for the CAASPP ETS contract work in fiscal year 2017–18. Funding for 2018–19 and beyond will be contingent on an annual appropriation from the Legislature.

ATTACHMENT(S)

Attachment 1: Draft California Science Test Blueprint (15 Pages)

Attachment 2: Draft California Science Test General Achievement Level Descriptors (1 Page)

Attachment 3: Draft California Spanish Assessment Blueprint (20 Pages)

Attachment 4: Draft California Spanish Assessment General Achievement Level Descriptors (1 Page)
DRAFT—California Science Test General Achievement Level Descriptors

General achievement level descriptors (ALDs), or policy ALDs, are generic descriptors of student performance level expectations. They provide the range of measurement for the assessment and characterize results with regard to the defined standards. General ALDs apply across grade levels and are referenced when drafting the specific descriptors used in setting threshold scores.

The California Science Test general ALDs were created by science assessment experts and then reviewed with California science educators, with the intent to collect feedback and recommended revisions for the California Department of Education. The draft general ALDs are the result of this process.

<table>
<thead>
<tr>
<th>Level</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>4</td>
<td>The student has <strong>exceeded</strong> the performance expectations of the California Next Generation Science Standards (CA NGSS) by demonstrating a <strong>thorough</strong> understanding of the CA NGSS and a thorough ability to apply his or her knowledge and skills through the CA NGSS Science and Engineering Practices, Disciplinary Core Ideas, and Crosscutting Concepts.</td>
</tr>
<tr>
<td>3</td>
<td>The student has <strong>met</strong> the performance expectations of the CA NGSS by demonstrating an <strong>adequate</strong> understanding of the CA NGSS and an adequate ability to apply his or her knowledge and skills through the CA NGSS Science and Engineering Practices, Disciplinary Core Ideas, and Crosscutting Concepts.</td>
</tr>
<tr>
<td>2</td>
<td>The student has <strong>nearly met</strong> the performance expectations of the CA NGSS by demonstrating a <strong>partial</strong> understanding of the CA NGSS and a partial ability to apply his or her knowledge and skills through the CA NGSS Science and Engineering Practices, Disciplinary Core Ideas, and Crosscutting Concepts.</td>
</tr>
<tr>
<td>1</td>
<td>The student has <strong>not met</strong> the performance expectations of the CA NGSS by demonstrating a <strong>minimal</strong> understanding of the CA NGSS and a minimal ability to apply his or her knowledge and skills through the CA NGSS Science and Engineering Practices, Disciplinary Core Ideas, and Crosscutting Concepts.</td>
</tr>
</tbody>
</table>
California Science Test Blueprint

DRAFT

October 19, 2017

Prepared by:

ETS

Measuring the Power of Learning™
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Introduction

The California Science Test (CAST), administered pursuant to California Education Code (EC) Section 60640(b)(2)(B), is part of the California Assessment of Student Performance and Progress (CAASPP) System. The CAST measures the full range of the California Next Generation Science Standards (CA NGSS) and is administered to students in grades five and eight and once in high school (i.e., grade ten, eleven, or twelve).

The CAST blueprint documents how test forms for the CAST will be assembled, including rules for the assessment of the CA NGSS Performance Expectations (PEs) and the integration of the Disciplinary Core Ideas (DCIs), Science and Engineering Practices (SEPs), and Crosscutting Concepts (CCCs). The CA NGSS are referred to as “three dimensional” (3D) because of the interrelationships of the DCIs, SEPs, and CCCs. The CAST is designed to reflect a commitment to the 3D approach in both the writing of test items, each of which is aligned to at least two of the three dimensions, and in the assembly of test forms as detailed in this blueprint.

The test includes three science content domains (Physical Sciences, Life Sciences, and Earth and Space Sciences) and one engineering domain (Engineering, Technology, and Application of Science). For scoring and reporting purposes, each of the three science content domains will constitute one third of the test (items written to assess PEs associated with Engineering, Technology, and Application of Science will be assigned to one of the three science content domains, depending upon the context of their stimulus).

The CAST is an untimed test (meaning that students should be allowed as much time as they need to complete it), and it is expected to take approximately two hours to administer all three segments:

- Segment A contributes to both student and group scores, contains discrete items, and is designed to measure a broad sample of PEs.

- Segment B contributes to both student and group scores, contains performance tasks (PTs), and is designed to provide deep measurement of a targeted sample of a few PEs in item sets.

- Segment C contributes only to group scores and may contain either a block of discrete items or a single PT.

CAST test forms will sample PEs as follows:

- For the segments contributing to individual student scores (Segment A and Segment B), it is not possible to assess all PEs in a single testing year. As a result, PEs assessed in Segment A and Segment B will be rotated from year to year so that all PEs can be assessed in the segments contributing to individual scores over the course of a three-year period.
• For the segment contributing only to group scores (Segment C), matrix sampling (the administration of a number of different versions across the state) will allow for assessment of all PEs annually at a state-wide level.

Although the CAST blueprint is not intended to guide instruction, it is a goal of the CAST to sample PEs broadly each year, as explained, so that instruction in a broad range of PEs will both be true to the intentions of the CA NGSS and will also provide solid preparation for the CAST.
pptb-adad-nov17item04
Attachment 1
Page 5 of 15

CAST Claims
The CAST has four claims—one overall claim for the entire assessment, and three separate science content domain
claims. Table 1 shows the claim statements for CAST.
Table 1. CAST Claims
3D Overall

Students can demonstrate performances associated with the expectations of the
California Next Generation Science Standards, through the integration of Science and
Engineering Practices, Disciplinary Core Ideas, and Crosscutting Concepts across the
domains of Physical Sciences, Life Sciences, Earth and Space Sciences, and
Engineering, Technology, and Application of Science.

3D Physical Sciences

Students can demonstrate performances associated with the expectations in the
disciplinary area of Physical Sciences within the California Next Generation Science
Standards, through the integration of Science and Engineering Practices, Disciplinary
Core Ideas, and Crosscutting Concepts.

3D Life Sciences

Students can demonstrate performances associated with the expectations in the
disciplinary area of Life Sciences within the California Next Generation Science
Standards, through the integration of Science and Engineering Practices, Disciplinary
Core Ideas, and Crosscutting Concepts.

3D Earth and Space
Sciences

Students can demonstrate performances associated with the expectations in the
disciplinary area of Earth and Space Sciences within the California Next Generation
Science Standards, through the integration of Science and Engineering Practices,
Disciplinary Core Ideas, and Crosscutting Concepts.

5

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CAST Test Segments Contributing to Individual Scores

Table 2 shows the distribution of points by science content domain and by DCI for the two sections of CAST used to generate student scores (Segment A and Segment B). An individual student will receive items with sufficient points in each domain to support the reporting of both an overall score and science content domain scores. More detailed tables illustrating the integration of the DCIs, SEPs, and CCCs appear later in this document (see Table 4, Table 5, and Table 6). Note that each assessment draws on PEs from several grades. The grade five assessment draws on PEs from grades three through five (3–5) and also includes the foundational concepts that are addressed in kindergarten through grade 2 (K–2). The grade eight assessment draws on PEs from grades six through eight (6–8), and the high school assessment draws on PEs from the grades nine through twelve (9–12).

For individual test takers, there will be 54–58 score points overall and 12–25 score points for each science content domain (depending upon whether PT performance is included in the science content domain score).

Table 2. Segments Contributing to Individual Scores—Assessed in Grades 5 and 8, and High School Testing Time: 1 hour and 40 minutes

<table>
<thead>
<tr>
<th>Science Content Domain</th>
<th>Disciplinary Core Idea (DCI)**</th>
<th>Items by DCI—Grade 5</th>
<th>Items by DCI—Grade 8</th>
<th>Items by DCI—HS</th>
<th>Total Segment A Items (and Points) per Grade Level</th>
<th>Segment B: Performance Tasks (PTs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical Sciences (PS)</td>
<td>PS1: Matter and Its Interactions</td>
<td>1–3</td>
<td>1–5</td>
<td>2–7</td>
<td>8–12 (12–18 Points)</td>
<td>2 PTs</td>
</tr>
<tr>
<td></td>
<td>PS2: Motion and Stability: Forces and Interactions</td>
<td>1–4</td>
<td>1–4</td>
<td>1–5</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>PS3: Energy</td>
<td>1–4</td>
<td>1–4</td>
<td>1–4</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>PS4: Waves and Their Applications in Technologies for Information Transfer</td>
<td>1–2</td>
<td>1–2</td>
<td>1–4</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>ETS1: Engineering Design</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Life Sciences (LS)s</td>
<td>LS1: From Molecules to Organisms: Structures and Processes</td>
<td>1–2</td>
<td>1–6</td>
<td>1–6</td>
<td>8–12 (12–18 Points)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>LS2: Ecosystems: Interactions, Energy and Dynamics</td>
<td>1–2</td>
<td>1–4</td>
<td>1–7</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>LS3: Heredity: Inheritance and Variation of Traits</td>
<td>1–2</td>
<td>1–2</td>
<td>1–2</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>LS4: Biological Evolution: Unity and Diversity</td>
<td>1–4</td>
<td>1–5</td>
<td>1–5</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>ETS1: Engineering Design</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Earth and Space Sciences (ESS)</td>
<td>ESS1: Earth’s Place in the Universe</td>
<td>1–2</td>
<td>1–3</td>
<td>1–5</td>
<td>8–12 (12–18 Points)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ESS2: Earth’s Systems</td>
<td>1–5</td>
<td>1–5</td>
<td>1–6</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>ESS3: Earth and Human Activity</td>
<td>1–3</td>
<td>1–4</td>
<td>1–5</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>ETS1: Engineering Design</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTALS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>32–34 Items (42–44 Points)</td>
<td>2 PTs, 4–6 Items per PT (12–14 Points Total)</td>
</tr>
</tbody>
</table>

* Across the three science content domains, a student will receive 2 to 4 items assessing Engineering, Technology, and Application of Science. The item(s) may be discrete or part of a PT.

** The CAST Item Specifications provide greater detail on the assessment targets by Performance Expectation.
CAST Test Segment Contributing to Group Scores

Table 3 shows the additional score points by science content domain and DCI that will be collected in Segment C and will contribute only to group scores. In Segment C, each student will complete either a block of discrete items that includes both operational and field test items or one operational PT or one field test PT.

Note that each assessment draws on PEs from several grades. The grade five assessment draws on PEs from grades three through five (3–5) and also includes the foundational concepts that are addressed in kindergarten through grade 2 (K–2). The grade eight assessment draws on PEs from grades six through eight (6–8), and the high school assessment draws on PEs from grades nine through twelve (9–12).

Table 3. Segment Contributing to Group Scores*—Assessed in Grades 5 and 8, and High School
Testing Time: 20 minutes

<table>
<thead>
<tr>
<th>Science Content Domain</th>
<th>DCIs</th>
<th>Discrete Items</th>
<th>Performance Tasks (PT)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical Sciences (PS)</td>
<td>PS1: Matter and Its Interactions</td>
<td>2-3</td>
<td>1 PT</td>
</tr>
<tr>
<td></td>
<td>PS2: Motion and Stability: Forces and Interactions</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>PS3: Energy</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>PS4: Waves and Their Applications in Technologies for Information Transfer</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>ETS1: Engineering Design</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Life Sciences (LS)</td>
<td>LS1: From Molecules to Organisms: Structures and Processes</td>
<td>2-3</td>
<td></td>
</tr>
<tr>
<td></td>
<td>LS2: Ecosystems: Interactions, Energy and Dynamics</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>LS3: Heredity: Inheritance and Variation of Traits</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>LS4: Biological Evolution: Unity and Diversity</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>ETS1: Engineering Design</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Earth and Space Sciences (ESS)</td>
<td>ESS1: Earth’s Place in the Universe</td>
<td>2-3</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ESS2: Earth’s Systems</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>ESS3: Earth and Human Activity</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>ETS1: Engineering Design</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operational Items per Form (Segment C)</td>
<td></td>
<td>6–7 Operational Discrete Items</td>
<td>1 Operational PT (4–6 Items) OR 1 Field Test PT (4–7 Items)</td>
</tr>
<tr>
<td>Field Test Items per Form (Segment C)</td>
<td></td>
<td>6–7 Field Test Discrete Items</td>
<td></td>
</tr>
<tr>
<td>TOTAL Operational Items and Points (Segment C)</td>
<td></td>
<td>4–7 Operational Items (6–8 Total Points)</td>
<td></td>
</tr>
</tbody>
</table>

* Group reporting includes items from Segment A, Segment B, and Segment C.
Segment A—Details of PE Distribution for High School Assessment

Segment A is designed to assess a student’s mastery of a breadth of PEs of the CA NGSS in high school (9–12). Table 4 displays an "X" for the intersections of SEPs, DCIs, and CCCs articulated in the PEs. These intersections represent opportunities to develop items that can be used to assemble Segment A. While each individual item reflects the intersection of a SEP, DCI, and CCC, the table that follows indicate the proposed distribution of Segment A items by DCI, SEP and CCC.

Table 4. PE Distribution for Segment A of the CAST High School Assessment

<table>
<thead>
<tr>
<th>Science Content Domain and DCI Strands</th>
<th>Physical Sciences (24 PEs)</th>
<th>Life Sciences (24 PEs)</th>
<th>Earth and Space Sciences (19 PEs)</th>
<th>ETS (4 PEs)</th>
<th>Items per SEP</th>
</tr>
</thead>
<tbody>
<tr>
<td>CCC 1 5 7 1 2 4 6 2 4 5 2 4 7</td>
<td>4 5 6 7 2 3 4 5 7 2 3 1 2</td>
<td>1 3 5 7 2 5 7 2 4 7 n/a n/a</td>
<td>2–3</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

**Science and Engineering Practices**

<table>
<thead>
<tr>
<th>SEP 1</th>
<th>SEP 1E</th>
<th>SEP 2</th>
<th>SEP 3</th>
<th>SEP 4</th>
<th>SEP 5</th>
<th>SEP 6</th>
<th>SEP 6E</th>
<th>SEP 7</th>
<th>SEP 8</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>X</td>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* For scoring and reporting purposes, items written to assess PEs associated with Engineering, Technology, and Application of Science will be assigned to one of the three science domains, depending upon the context of their stimulus.
Notes on Table 4:

- X indicates that there is at least one PE at the given intersection of the three dimension that can be sampled on a test form for Segment A.

- n/a indicates there is no CCC for at least some of the PEs in the column.

- SEPs 1 and 6 have separate components for science and engineering (SEP 1E and SEP 6E). All other SEPs incorporate the same components for both science and engineering.
  
  o CA NGSS calls out the distinctive purposes of practices primarily in two specific SEPs: SEP 1 and SEP 6. For SEP 1 in science (SEP1), the practice focuses on identifying questions about phenomena. For SEP 1 in engineering (SEP1-E), the practice focuses on defining a problem to be solved. For SEP 6 in science (SEP6), the goal of the practice is to construct logically coherent explanations of phenomena to incorporate students’ current understanding of science. For SEP 6 in engineering (SEP6-E), the goal is to propose design solutions to balance competing criteria of desired functions.

- Details on the naming conventions and full names of SEPs, DCIs, and CCCs are provided in Appendix B: Full Titles for SEPs, DCIs, and CCCs.
Segment A—Details of PE Distribution for Grade 8 Assessment

Segment A is designed to assess a student's mastery of a breadth of PEs of the CA NGSS in grades six through eight (6–8). Table 5 displays an "X" for the intersections of SEPs, DCIs, and CCCs articulated in the PEs. These intersections represent opportunities to develop items that can be used to assemble Segment A. While each individual item reflects the intersection of a SEP, DCI, and CCC, the table that follows indicate the proposed distribution of Segment A items by DCI, SEP, and CCC.

Table 5. PE Distribution for Segment A of the CAST Grade 8 Assessment

<table>
<thead>
<tr>
<th>Science Content Domain and DCI Strands</th>
<th>Physical Sciences (19 PEs)</th>
<th>Life Sciences (21 PEs)</th>
<th>Earth and Space Sciences (15 PEs)</th>
<th>ETS (4 PEs)</th>
<th>Items per SEP</th>
</tr>
</thead>
<tbody>
<tr>
<td>CCC</td>
<td>PS1</td>
<td>PS2</td>
<td>PS3</td>
<td>PS4</td>
<td>LS1</td>
</tr>
<tr>
<td>SEP 1</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>SEP 1E</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>SEP 2</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>SEP 3</td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>SEP 4</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>SEP 5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SEP 6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>SEP 6E</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SEP 7</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>SEP 8</td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Items per DCI Strand</td>
<td>1–5</td>
<td>1–4</td>
<td>1–4</td>
<td>1–2</td>
<td>1–6</td>
</tr>
<tr>
<td>Items per Domain</td>
<td>8–10</td>
<td>8–10</td>
<td>8–10</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* For scoring and reporting purposes, items written to assess PEs associated with Engineering, Technology, and Application of Science will be assigned to one of the three science content domains, depending upon the context of their stimulus.
Notes on Table 5:

- X indicates that there is at least one PE at the given intersection of the three dimension that can be sampled on a test form for Segment A.

- n/a indicates there is no CCC for at least some of the PEs in the column.

- SEPs 1 and 6 have separate components for science and engineering (SEP 1E and SEP 6E). All other SEPs incorporate the same components for both science and engineering.
  
  - CA NGSS calls out the distinctive purposes of practices primarily in two specific SEPs: SEP 1 and SEP 6. For SEP 1 in science (SEP1), the practice focuses on identifying questions about phenomena. For SEP 1 in engineering (SEP1-E), the practice focuses on defining a problem to be solved. For SEP 6 in science (SEP6), the goal of the practice is to construct logically coherent explanations of phenomena to incorporate students’ current understanding of science. For SEP 6 in engineering (SEP6-E), the goal is to propose design solutions to balance competing criteria of desired functions.

- Details on the naming conventions and full names of SEPs, DCIs, and CCCs are provided in Appendix B: Full Titles for SEPs, DCIs, and CCCs.
### Segment A—Details of PE Distribution for Grade 5 Assessment

Segment A is designed to assess a student’s mastery of a breadth of PEs of the CA NGSS in grades three through five (3–5) and also includes the foundational concepts that are introduced in kindergarten–grade 2 (K–2). Table 6 displays an "X" for the intersections of SEPs, DCIs, and CCCs articulated in the PEs. These intersections represent opportunities to develop items that can be used to assemble Segment A. While each individual item reflects the intersection of a SEP, DCI, and CCC, the tables that follow indicate the proposed distribution of Segment A items by DCI, SEP, and CCC.

#### Table 6. PE Distribution for Segment A of the CAST Grade 5 Assessment

<table>
<thead>
<tr>
<th>Science Content Domain and DCI Strands</th>
<th>Physical Sciences (17 PEs)</th>
<th>Life Sciences (12 PEs)</th>
<th>Earth and Space Sciences (13 PEs)</th>
<th>ETS (3 PEs)</th>
<th>Items per SEP</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PS1</td>
<td>PS2</td>
<td>PS3</td>
<td>PS4</td>
<td>LS1</td>
</tr>
<tr>
<td>CCC</td>
<td>2</td>
<td>3</td>
<td>1</td>
<td>n/a</td>
<td>5</td>
</tr>
<tr>
<td>SEP 1</td>
<td>X</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SEP 1E</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SEP 2</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>SEP 3</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>SEP 4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>SEP 5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>SEP 6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SEP 6E</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>SEP 7</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>SEP 8</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Items per DCI Strand</td>
<td>1–3</td>
<td>1–4</td>
<td>1–4</td>
<td>1–2</td>
<td>1–2</td>
</tr>
<tr>
<td>Items per Domain</td>
<td>8–10</td>
<td>8–10</td>
<td>8–10</td>
<td>8–10</td>
<td>8–10</td>
</tr>
</tbody>
</table>
Notes on Table 6:

- X indicates that there is at least one PE at the given intersection of the three dimension that can be sampled on a test form for segment A.

- n/a indicates there is no CCC for at least some of the PEs in the column.

- SEPs 1 and 6 have separate components for science and engineering (SEP 1E and SEP 6E). All other SEPs incorporate the same components for both science and engineering.
  
  - CA NGSS calls out the distinctive purposes of practices primarily in two specific SEPs: SEP 1 and SEP 6. For SEP 1 in science (SEP1), the practice focuses on identifying questions about phenomena. For SEP 1 in engineering (SEP1-E), the practice focuses on defining a problem to be solved. For SEP 6 in science (SEP6), the goal of the practice is to construct logically coherent explanations of phenomena to incorporate students’ current understanding of science. For SEP 6 in engineering (SEP6-E), the goal is to propose design solutions to balance competing criteria of desired functions.

- Details on the naming conventions and full names of SEPs, DCIs, and CCCs are provided in Appendix B: Full Titles for SEPs, DCIs, and CCCs.
Appendix A: Guidance on Interpreting Table 4, Table 5, and Table 6

In the excerpt shown (from Table 4), the “X” corresponds to a PE that has DCI(s) in the PS1 strand and is coded to SEP 2 (Developing and Using Models), and CCC 5 (Energy and Matter).

The corresponding PE is excerpted from the CA NGSS Evidence Statements document here:

**HS-PS1.4.** Develop a model to illustrate that the release or absorption of energy from a chemical reaction system depends upon the changes in total bond energy. [Clarification Statement: Emphasis is on the idea that a chemical reaction is a system that affects the energy change. Examples of models could include molecular-level drawings and diagrams of reactions, graphs showing the relative energies of reactants and products, and representations showing energy is conserved.] [Assessment Boundary: Assessment does not include calculating the total bond energy changes during a chemical reaction from the bond energies of reactants and products.]

The performance expectation above was developed using the following elements from the NRC document *A Framework for K-12 Science Education:*

**Science and Engineering Practices**
- Developing and Using Models
  - Modeling in 9–12 builds on K–8 and progresses to using, synthesizing, and developing models to predict and show relationships among variables between systems and their components in the natural and designed worlds.
  - Develop a model based on evidence to illustrate the relationships between systems or between components of a system.

**Disciplinary Core Ideas**
  - A stable molecule has less energy than the same set of atoms separated; one must provide at least this energy in order to take the molecule apart.
- PS1.B: Chemical Reactions
  - Chemical processes, their rates, and whether or not energy is stored or released can be understood in terms of the collisions of molecules and the rearrangements of atoms into new molecules, with consequent changes in the sum of all bond energies in the set of molecules that are matched by changes in kinetic energy.

**Crosscutting Concepts**
- Energy and Matter
  - Changes of energy and matter in a system can be described in terms of energy and matter flows into, out of, and within that system.
Appendix B: Full Titles for SEPs, DCIs, and CCCs

Science and Engineering Practices (SEPs)

SEP 1—Asking Questions (Science)
SEP 1E—Defining Problems (Engineering)
SEP 2—Developing and Using Models
SEP 3—Planning and Carrying Out Investigations
SEP 4—Analyzing and Interpreting Data
SEP 5—Using Mathematics and Computational Thinking
SEP 6—Constructing Explanations (Science)
SEP 6E—Designing Solutions (Engineering)
SEP 7—Engaging in Argument from Evidence
SEP 8—Obtaining, Evaluating, and Communicating Information

Disciplinary Core Ideas (DCIs)

PS1—Matter and Its Interactions
PS2—Motion and Stability: Forces and Interactions
PS3—Energy
PS4—Waves and Their Applications in Technologies for Information Transfer
LS1—From Molecules to Organisms: Structures and Processes
LS2—Ecosystems: Interactions, Energy and Dynamics
LS3—Heredity: Inheritance and Variation of Traits
LS4—Biological Evolution: Unity and Diversity
ESS1—Earth’s Place in the Universe
ESS2—Earth’s Systems
ESS3—Earth and Human Activity
ETS1—Engineering, Technology, and Application of Science

Crosscutting Concepts (CCCs)

1—Patterns
2—Cause and effect
3—Scale, proportion, and quantity
4—Systems and system models
5—Energy and matter
6—Structure and function
7—Stability and change
Draft California Spanish Assessment Blueprint

Presented by Educational Testing Service

October 13, 2017
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Introduction to the Blueprint for the California Spanish Assessment

The proposed test blueprint for the California Spanish Assessment (CSA) provides the proposed numbers of items and points to be included in an operational assessment for each language-arts domain assessed in grades three through eight and high school. Note, however, that the numbers of items and points are subject to revision in response to a qualitative evaluation of the items after the first pilot test and in response to statistical analyses of the first field test and first operational use.

All items are aligned with the translated and linguistically augmented version of Common Core English language arts (ELA)/literacy standards (i.e., "California Common Core State Standards en Español" [CCCSSeE]).

Each grade has more than 50 testable standards at its disposal, so there are three overview tables provided—grades three through five, six through eight, and high school (grades nine through twelve)—to clarify the overall proportions of the blueprint. After the overview tables, specifics for each tested grade level are given, enumerating further subdivisions of the content and specific groups of testing standards. Note that high school grades are tested together in one level using the CCCSSeE designated as “9–10” and “11–12” and uses the designation “high school” (HS).

The proposed blueprint is represented in tables. Each overview table is organized by the three domains assessed: Reading, Writing (Mechanics), and Listening—referred to as claim/score reporting category—and are provided in the first column. Other columns in the proposed blueprint are as follows:

- **Second column:** Content Category
- **Third column:** Standard(s) from the CCCSSeE being assessed
- **Fourth column:** Number of items representing the content category on an operational assessment
- **Fifth column:** Number of points for the given content category
- **Remaining columns:** Aggregated item counts, points, and percentages by claim

The grade-specific pages of the test blueprint take the same information to a granular level, providing the proportions of testing standards, both main and contributory, that cover the content category on an operational assessment.

Item counts and point values may be adjusted further during future stages of the CSA design and development effort to take into consideration the evaluation of pilot test results as well as the analyses of statistics of both the first field test and the first operational administration of the CSA.
# Grade Span Three through Five

## Blueprint Overview

| Proposed Blueprint Table, California Spanish Assessment (CSA), Grades Three–Five, Operational Forms, 2019 |
|---|---|---|---|---|---|---|
| **Claim/Score Reporting Category** | **Content Category** | **Total Items by Content Category** | **Total Score Points by Content Category** | **Total Items by Claim** | **Percentage of Items by Claim** | **Total Score Points by Claim** |
| **Reading Claim**: Students can read, analyze, and interpret a variety of texts and genres through Spanish. | Literary | 6–9 | 7–11 | 24 | 46% | 27–35 |
|  | Informational | 6–9 | 7–11 | |
|  | Vocabulary and Meaning | 8–10 | 10–13 | |
| **Writing Claim**: Students can revise writing products that accurately and convincingly present, describe, and explain ideas for a range of purposes and audiences through Spanish. | Foundational Mechanics and Conventions | 8–10 | 10–13 | 16 | 31% | 19–22 |
|  | Revising and Editing | 5–7 | 6–9 | |
| **Listening Claim**: Students can comprehend spoken Spanish in a range of contexts. | Listening Comprehension | 12 | 15–17 | 12 | 23% | 15–17 |
| **TOTALS**: |  | 52 | 100% | 61–66 | 100% |

*Note: Some items are anticipated to be polytomously scored (maximum of two points), so the number of items is smaller than the number of score points.

Not accounted for with this blueprint: Constructed-Response Writing items.
# Blueprint and Standards, Grade Three

## Proposed Blueprint Table and California Common Core State Standards en Español (CCCSSeE) Sampling, California Spanish Assessment (CSA), Grade Three, Operational Forms, 2019

<table>
<thead>
<tr>
<th>Claim/Score Reporting Category</th>
<th>Content Category</th>
<th>CCCSSeE Sampling*</th>
<th>Item Count</th>
<th>Score Points</th>
<th>Total Items by Content Category</th>
<th>Total Score Points by Content Category</th>
<th>Total Items by Claim</th>
<th>Total Score Points by Claim</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Reading Claim</strong>: Students can read, analyze, and interpret a variety of texts and genres through Spanish.</td>
<td>Literary</td>
<td>Key Ideas and Details: 3.RL.1, 3.RL.2, 3.RL.3</td>
<td>4–6</td>
<td>5–7</td>
<td>6–9</td>
<td>7–11</td>
<td>24</td>
<td>27–35</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Craft and Structure: 3.RL.5, 3.RL.6</td>
<td>1–2</td>
<td>1–3</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Integration of Knowledge and Ideas: 3.RL.7, 3.RL.9</td>
<td>1–2</td>
<td>1–3</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Informational</strong></td>
<td></td>
<td>Key Ideas and Details: 3.RI.1, 3.RI.2, 3.RI.3</td>
<td>4–6</td>
<td>5–7</td>
<td>6–9</td>
<td>7–11</td>
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<td></td>
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<tr>
<td></td>
<td></td>
<td>Craft and Structure: 3.RI.5, 3.RI.6</td>
<td>1–2</td>
<td>1–3</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Integration of Knowledge and Ideas: 3.RI.7, 3.RI.8, 3.RI.9</td>
<td>1–2</td>
<td>1–3</td>
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</tr>
<tr>
<td><strong>Writing Claim</strong>: Students can revise writing products that accurately and convincingly present, describe, and explain ideas for a range of purposes and audiences through Spanish.</td>
<td>Foundational Mechanics and Conventions</td>
<td>Foundational Mechanics and Conventions: 3.RF.3 and any contributory standards, and 3.L.1, 3.L.2, 3.L.3 and any contributory standards</td>
<td>8–10</td>
<td>10–13</td>
<td>8–10</td>
<td>10–13</td>
<td>16</td>
<td>19–22</td>
</tr>
<tr>
<td></td>
<td>Revising and Editing</td>
<td>Revising and Editing: 3.W.1, 3.W.2, 3.W.3 and any contributory standards</td>
<td>5–7</td>
<td>6–9</td>
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<tr>
<td>Claim/Score Reporting Category</td>
<td>Content Category</td>
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<td>Total Items by Claim</td>
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</tr>
<tr>
<td><strong>Listening Claim:</strong> Students can comprehend spoken Spanish in a range of contexts.</td>
<td>Listening Comprehension</td>
<td>Listening Comprehension: 3.SL.2, 3.SL.3</td>
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<td>15–17</td>
<td>12</td>
<td>15–17</td>
<td>12</td>
<td>15–17</td>
</tr>
</tbody>
</table>

**TOTALS:** 52 61–66

*Note that many standards have contributory standards encompassed in the sampling. For instance, Language Standard 2 deals with conventions and Standard 2a deals specifically with capitalization. While Standard 2a is not mentioned above, it is incorporated under Language Standard 2.

Not accounted for with this blueprint: Constructed-Response Writing items.
# Blueprint and Standards, Grade Four

## Proposed Blueprint Table and California Common Core State Standards en Español (CCCSSSeE) Sampling, California Spanish Assessment (CSA), Grade Four, Operational Forms, 2019

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<tr>
<th>Claim/Score Reporting Category</th>
<th>Content Category</th>
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<th>Score Points</th>
<th>Total Items by Content Category</th>
<th>Total Score Points by Content Category</th>
<th>Total Items by Claim</th>
<th>Total Score Points by Claim</th>
</tr>
</thead>
<tbody>
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<td><strong>Reading Claim:</strong> Students can read, analyze, and interpret a variety of texts and genres through Spanish.</td>
<td>Literary</td>
<td>Key Ideas and Details: 4.RL.1, 4.RL.2, 4.RL.3</td>
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<td>5–7</td>
<td>6–9</td>
<td>7–11</td>
<td>24</td>
<td>27–35</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Craft and Structure: 4.RL.5, 4.RL.6</td>
<td>1–2</td>
<td>1–3</td>
<td>1–2</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Integration of Knowledge and Ideas: 4.RL.7, 4.RL.9</td>
<td>1–2</td>
<td>1–3</td>
<td>1–2</td>
<td>1–3</td>
<td></td>
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<tr>
<td></td>
<td>Informational</td>
<td>Key Ideas and Details: 4.RI.1, 4.RI.2, 4.RI.3</td>
<td>4–6</td>
<td>5–7</td>
<td>6–9</td>
<td>7–11</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Craft and Structure: 4.RI.5, 4.RI.6</td>
<td>1–2</td>
<td>1–3</td>
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<tr>
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<td>Integration of Knowledge and Ideas: 4.RI.7, 4.RI.8, 4.RI.9</td>
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<td>1–3</td>
<td>1–2</td>
<td>1–3</td>
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<tr>
<td><strong>Writing Claim:</strong> Students can revise writing products that accurately and convincingly present, describe, and explain ideas for a range of purposes and audiences through Spanish.</td>
<td>Foundational Mechanics and Conventions</td>
<td>Foundational Mechanics and Conventions: 4.RF.3 and any contributory standards, and 4.L.1, 4.L.2, 4.L.3 and any contributory standards</td>
<td>8–10</td>
<td>10–13</td>
<td>8–10</td>
<td>10–13</td>
<td>16</td>
<td>19–22</td>
</tr>
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<td>Item Count</td>
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<td>Total Items by Claim</td>
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<td>Total Score Points by Content Category</td>
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</tr>
<tr>
<td><strong>Listening Claim:</strong> Students can comprehend spoken Spanish in a range of contexts.</td>
<td>Listening Comprehension</td>
<td>Listening Comprehension: 4.SL.2, 4.SL.3</td>
<td>12</td>
<td>15–17</td>
<td>12</td>
<td>15–17</td>
<td>12</td>
<td>15–17</td>
</tr>
</tbody>
</table>

**TOTALS:** 52 61–66

*Note that many standards have contributory standards encompassed in the sampling. For instance, Language Standard 2 deals with conventions and Standard 2a deals specifically with capitalization. While Standard 2a is not mentioned above, it is incorporated under Language Standard 2.*

Not accounted for with this blueprint: Constructed-Response Writing items.
# Blueprint and Standards, Grade Five

## Proposed Blueprint Table and California Common Core State Standards en Español (CCCSSeE) Sampling, California Spanish Assessment (CSA), Grade Five, Operational Forms, 2019

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<th>Score Points</th>
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<th>Total Score Points by Content Category</th>
<th>Total Items by Claim</th>
<th>Total Score Points by Claim</th>
</tr>
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<tbody>
<tr>
<td><strong>Reading Claim</strong>: Students can read, analyze, and interpret a variety of texts and genres through Spanish.</td>
<td>Literary</td>
<td>Key Ideas and Details: 5.RL.1, 5.RL.2, 5.RL.3</td>
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<td>5–7</td>
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<td>27–35</td>
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<td></td>
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<td>Craft and Structure: 5.RL.5, 5.RL.6</td>
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<td>1–3</td>
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<td>Integration of Knowledge and Ideas: 5.RL.7, 5.RL.9</td>
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<td>1–3</td>
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<td>Informational</td>
<td>Key Ideas and Details: 5.RI.1, 5.RI.2, 5.RI.3</td>
<td>4–6</td>
<td>5–7</td>
<td>6–9</td>
<td>7–11</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Craft and Structure: 5.RI.5, 5.RI.6</td>
<td>1–2</td>
<td>1–3</td>
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<td></td>
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<tr>
<td></td>
<td></td>
<td>Integration of Knowledge and Ideas: 5.RI.7, 5.RI.8, 5.RI.9</td>
<td>1–2</td>
<td>1–3</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Vocabulary and Meaning</td>
<td>Vocabulary and Meaning: 5.RL.4, 5.RL.4 5.L.4, 5.L.5, 5.L.6 and any contributory standards</td>
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<td>10–13</td>
<td>8–10</td>
<td>10–13</td>
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</tr>
<tr>
<td><strong>Writing Claim</strong>: Students can revise writing products that accurately and convincingly present, describe, and explain ideas for a range of purposes and audiences through Spanish.</td>
<td>Foundational Mechanics and Conventions</td>
<td>Foundational Mechanics and Conventions: 5.RF.3 and any contributory standards, and 5.L.1, 5.L.2, 5.L.3 and any contributory standards</td>
<td>8–10</td>
<td>10–13</td>
<td>8–10</td>
<td>10–13</td>
<td>16</td>
<td>19–22</td>
</tr>
<tr>
<td></td>
<td>Revising and Editing</td>
<td>Revising and Editing: 5.W.1, 5.W.2, 5.W.3 and any contributory standards</td>
<td>5–7</td>
<td>6–9</td>
<td>5–7</td>
<td>6–9</td>
<td></td>
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<td>Claim/Score Reporting Category</td>
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<td>Total Items by Claim</td>
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</tr>
<tr>
<td><strong>Listening Claim:</strong> Students can comprehend spoken Spanish in a range of contexts.</td>
<td>Listening Comprehension</td>
<td>Listening Comprehension: 5.SL.2, 5.SL.3</td>
<td>12</td>
<td>15–17</td>
<td>12</td>
<td>15–17</td>
<td>12</td>
<td>15–17</td>
</tr>
</tbody>
</table>

**TOTALS:** 52 61–66

*Note that many standards have contributory standards encompassed in the sampling. For instance, Language Standard 2 deals with conventions and Standard 2a deals specifically with items in a series. While Standard 2a is not mentioned above, it is incorporated under Language Standard 2.

Not accounted for with this blueprint: Constructed-Response Writing items.
## Grade Span Six through Eight

### Blueprint Overview

<table>
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<th>Claim/Score Reporting Category</th>
<th>Content Category</th>
<th>Total Items by Content Category</th>
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<th>Total Items by Claim</th>
<th>Percentage of Items by Claim</th>
<th>Total Score Points by Claim*</th>
<th>Percentage of Score Points by Claim</th>
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<tr>
<td><strong>Reading Claim:</strong> Students can read, analyze, and interpret a variety of texts and genres through Spanish.</td>
<td>Literary</td>
<td>6–9</td>
<td>7–11</td>
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<td>46%</td>
<td>27–35</td>
<td>40–58%</td>
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<td>Informational</td>
<td>6–9</td>
<td>7–11</td>
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<td></td>
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</tr>
<tr>
<td></td>
<td>Vocabulary and Meaning</td>
<td>8–10</td>
<td>10–13</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Writing Claim:</strong> Students can revise writing products that accurately and convincingly present, describe, and explain ideas for a range of purposes and audiences through Spanish.</td>
<td>Mechanics and Conventions</td>
<td>7–9</td>
<td>8–11</td>
<td>16</td>
<td>31%</td>
<td>19–22</td>
<td>28–37%</td>
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<tr>
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<td>Revising and Editing</td>
<td>7–9</td>
<td>8–11</td>
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<tr>
<td><strong>Listening Claim:</strong> Students can comprehend spoken Spanish in a range of contexts.</td>
<td>Listening Comprehension</td>
<td>12</td>
<td>15–17</td>
<td>12</td>
<td>23%</td>
<td>15–17</td>
<td>22–28%</td>
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<tr>
<td><strong>TOTALS:</strong></td>
<td></td>
<td><strong>52</strong></td>
<td><strong>100%</strong></td>
<td><strong>61–66</strong></td>
<td><strong>100%</strong></td>
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<td></td>
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</tbody>
</table>

*Note: Some items are anticipated to be polytomously scored (maximum of two points), so the number of items is smaller than the number of score points.

Not accounted for with this blueprint: Constructed-Response Writing items.
# Blueprint and Standards, Grade Six

## Proposed Blueprint Table and California Common Core State Standards en Español (CCCSSe) Sampling, California Spanish Assessment (CSA), Grade Six, Operational Forms, 2019

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<thead>
<tr>
<th>Claim/Score Reporting Category</th>
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<th>Total Score Points by Content Category</th>
<th>Total Items by Claim</th>
<th>Total Score Points by Claim</th>
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<tbody>
<tr>
<td><strong>Reading Claim</strong>: Students can read, analyze, and interpret a variety of texts and genres through Spanish.</td>
<td>Literary</td>
<td>Key Ideas and Details: 6.RL.1, 6.RL.2, 6.RL.3</td>
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<td>5–7</td>
<td>6–9</td>
<td>7–11</td>
<td>24</td>
<td>27–35</td>
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<tr>
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<td>Craft and Structure: 6.RL.5, 6.RL.6</td>
<td>1–2</td>
<td>1–3</td>
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<tr>
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<td>Integration of Knowledge and Ideas: 6.RL.7, 6.RL.9</td>
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<td>Key Ideas and Details: 6.RI.1, 6.RI.2, 6.RI.3</td>
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<td></td>
<td>Integration of Knowledge and Ideas: 6.RI.7, 6.RI.8, 6.RI.9</td>
<td>1–2</td>
<td>1–3</td>
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<tr>
<td><strong>Writing Claim</strong>: Students can revise writing products that accurately andconvincingly present, describe, and explain ideas for a range of purposes and audiences through Spanish.</td>
<td>Mechanics and Conventions</td>
<td>Mechanics and Conventions: 6.L.1, 6.L.2, 6.L.3 and any contributory standards</td>
<td>7–9</td>
<td>8–11</td>
<td>7–9</td>
<td>8–11</td>
<td>16</td>
<td>19–22</td>
</tr>
<tr>
<td></td>
<td>Revising and Editing</td>
<td>Revising and Editing: 6.W.1, 6.W.2, 6.W.3 and any contributory standards</td>
<td>7–9</td>
<td>8–11</td>
<td>7–9</td>
<td>8–11</td>
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</table>
**Listening Claim:** Students can comprehend spoken Spanish in a range of contexts.

<table>
<thead>
<tr>
<th>Claim/Score Reporting Category</th>
<th>Content Category</th>
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<th>Item Count</th>
<th>Score Points</th>
<th>Total Items by Content Category</th>
<th>Total Score Points by Content Category</th>
<th>Total Items by Claim</th>
<th>Total Score Points by Claim</th>
</tr>
</thead>
<tbody>
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<td><strong>Listening Comprehension:</strong> 6.SL.2, 6.SL.3</td>
<td>Listening Comprehension</td>
<td>12</td>
<td>15–17</td>
<td>12</td>
<td>15–17</td>
<td>12</td>
<td>15–17</td>
<td></td>
</tr>
</tbody>
</table>

**TOTALES:** 52 61–66

*Note that many standards have contributory standards encompassed in the sampling. For instance, Language Standard 2 deals with conventions and Standard 2a deals specifically with nonrestrictive/parenthetical elements. While Standard 2a is not mentioned above, it is incorporated under Language Standard 2.

Not accounted for with this blueprint: Constructed-Response Writing items.
# Blueprint and Standards, Grade Seven

## Proposed Blueprint Table and California Common Core State Standards en Español (CCCSSeE) Sampling, California Spanish Assessment (CSA), Grade Seven, Operational Forms, 2019

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<th>Score Points</th>
<th>Total Items by Content Category</th>
<th>Total Score Points by Content Category</th>
<th>Total Items by Claim</th>
<th>Total Score Points by Claim</th>
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<tbody>
<tr>
<td><strong>Reading Claim:</strong> Students can read, analyze, and interpret a variety of texts and genres through Spanish.</td>
<td>Literary</td>
<td>Key Ideas and Details: 7.RL.1, 7.RL.2, 7.RL.3</td>
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<td>7–11</td>
<td>24</td>
<td>27–35</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Craft and Structure: 7.RL.5, 7.RL.6</td>
<td>1–2</td>
<td>1–3</td>
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<tr>
<td></td>
<td></td>
<td>Integration of Knowledge and Ideas: 7.RL.7, 7.RL.9</td>
<td>1–2</td>
<td>1–3</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td>Informational</td>
<td>Key Ideas and Details: 7.RI.1, 7.RI.2, 7.RI.3</td>
<td>4–6</td>
<td>5–7</td>
<td>6–9</td>
<td>7–11</td>
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<td></td>
<td></td>
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<td>Integration of Knowledge and Ideas: 7.RI.7, 7.RI.8, 7.RI.9</td>
<td>1–2</td>
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<tr>
<td><strong>Writing Claim:</strong> Students can revise writing products that accurately and convincingly present, describe, and explain ideas for a range of purposes and audiences through Spanish.</td>
<td>Mechanics and Conventions</td>
<td>Mechanics and Conventions: 7.L.1, 7.L.2, 7.L.3 and any contributory standards</td>
<td>7–9</td>
<td>8–11</td>
<td>7–9</td>
<td>8–11</td>
<td>16</td>
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<tr>
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<td>7–9</td>
<td>8–11</td>
<td>7–9</td>
<td>8–11</td>
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<td><strong>Listening Claim:</strong> Students can comprehend spoken Spanish in a range of contexts.</td>
<td>Listening Comprehension</td>
<td>Listening Comprehension: 7.SL.2, 7.SL.3</td>
<td>12</td>
<td>15–17</td>
<td>12</td>
<td>15–17</td>
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<tr>
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<td>Item Count</td>
<td>Score Points</td>
<td>Total Items by Content Category</td>
<td>Total Score Points by Content Category</td>
<td>Total Items by Claim</td>
<td>Total Score Points by Claim</td>
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<tr>
<td><strong>TOTALS:</strong></td>
<td></td>
<td></td>
<td>52</td>
<td>61–66</td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

*Note that many standards have contributory standards encompassed in the sampling. For instance, Language Standard 2 deals with conventions and Standard 2a deals specifically with coordinate adjectives before nouns. While Standard 2a is not mentioned above, it is incorporated under Language Standard 2.

Not accounted for with this blueprint: Constructed-Response Writing items.
# Blueprint and Standards, Grade Eight

## Proposed Blueprint Table and California Common Core State Standards en Español (CCCSSeE) Sampling, California Spanish Assessment (CSA), Grade Eight, Operational Forms, 2019

<table>
<thead>
<tr>
<th>Claim/Score Reporting Category</th>
<th>Content Category</th>
<th>CCCSSeE Sampling*</th>
<th>Item Count</th>
<th>Score Points</th>
<th>Total Items by Content Category</th>
<th>Total Score Points by Content Category</th>
<th>Total Items by Claim</th>
<th>Total Score Points by Claim</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Reading Claim:</strong> Students can read, analyze, and interpret a variety of texts and genres through Spanish.</td>
<td>Literary</td>
<td>Key Ideas and Details: 8.RL.1, 8.RL.2, 8.RL.3</td>
<td>4–6</td>
<td>5–7</td>
<td>6–9</td>
<td>7–11</td>
<td>24</td>
<td>27–35</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Craft and Structure: 8.RL.5, 8.RL.6</td>
<td>1–2</td>
<td>1–3</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Integration of Knowledge and Ideas: 8.RL.7, 8.RL.9</td>
<td>1–2</td>
<td>1–3</td>
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<td></td>
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<tr>
<td></td>
<td>Informational</td>
<td>Key Ideas and Details: 8.RI.1, 8.RI.2, 8.RI.3</td>
<td>4–6</td>
<td>5–7</td>
<td>6–9</td>
<td>7–11</td>
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<td></td>
<td>Craft and Structure: 8.RI.5, 8.RI.6</td>
<td>1–2</td>
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<tr>
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<td></td>
<td>Integration of Knowledge and Ideas: 8.RI.7, 8.RI.8, 8.RI.9</td>
<td>1–2</td>
<td>1–3</td>
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</tr>
<tr>
<td><strong>Writing Claim:</strong> Students can revise writing products that accurately and convincingly present, describe, and explain ideas for a range of purposes and audiences through Spanish.</td>
<td>Mechanics and Conventions</td>
<td>Mechanics and Conventions: 8.L.1, 8.L.2, 8.L.3 and any contributory standards</td>
<td>7–9</td>
<td>8–11</td>
<td>7–9</td>
<td>8–11</td>
<td>16</td>
<td>19–22</td>
</tr>
<tr>
<td></td>
<td>Revising and Editing</td>
<td>Revising and Editing: 8.W.1, 8.W.2, 8.W.3 and any contributory standards</td>
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<td>8–11</td>
<td>7–9</td>
<td>8–11</td>
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<tr>
<td><strong>Listening Claim:</strong> Students can comprehend spoken Spanish in a range of contexts.</td>
<td>Listening Comprehension</td>
<td>Listening Comprehension: 8.SL.2, 8.SL.3</td>
<td>12</td>
<td>15–17</td>
<td>12</td>
<td>15–17</td>
<td>12</td>
<td>15–17</td>
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<td>Claim/Score Reporting Category</td>
<td>Content Category</td>
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<td>Item Count</td>
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<td>Total Items by Claim</td>
<td>Total Score Points by Claim</td>
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</tr>
</tbody>
</table>

**TOTALS:** 52 61–66

*Note that many standards have contributory standards encompassed in the sampling. For instance, Language Standard 2 deals with conventions and Standard 2a deals specifically with punctuation indicating a pause or break. While Standard 2a is not mentioned above, it is incorporated under Language Standard 2.

Not accounted for with this blueprint: Constructed-Response Writing items.
Grade Span Nine through Twelve (High School)

Blueprint Overview

<table>
<thead>
<tr>
<th>Claim/Score Reporting Category</th>
<th>Content Category</th>
<th>Total Items by Content Category</th>
<th>Total Score Points by Content Category</th>
<th>Total Items by Claim</th>
<th>Percentage of Items by Claim</th>
<th>Total Score Points by Claim*</th>
<th>Percentage of Score Points by Claim</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Reading Claim</strong>: Students can read, analyze, and interpret a variety of texts and genres through Spanish.</td>
<td>Literary</td>
<td>6–9</td>
<td>7–11</td>
<td>24</td>
<td>46%</td>
<td>27–35</td>
<td>40–58%</td>
</tr>
<tr>
<td></td>
<td>Informational</td>
<td>6–9</td>
<td>7–11</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Vocabulary and Meaning</td>
<td>8–10</td>
<td>10–13</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Writing Claim</strong>: Students can revise writing products that accurately and convincingly present, describe, and explain ideas for a range of purposes and audiences through Spanish.</td>
<td>Mechanics and Conventions</td>
<td>7–9</td>
<td>8–11</td>
<td>16</td>
<td>31%</td>
<td>19–22</td>
<td>28–37%</td>
</tr>
<tr>
<td></td>
<td>Revising and Editing</td>
<td>7–9</td>
<td>8–11</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Listening Claim</strong>: Students can comprehend spoken Spanish in a range of contexts.</td>
<td>Listening Comprehension</td>
<td>12</td>
<td>15–17</td>
<td>12</td>
<td>23%</td>
<td>15–17</td>
<td>22–28%</td>
</tr>
</tbody>
</table>

*Totals: 52  100%  61–66  100%

*Note: Some items are anticipated to be polytomously scored (maximum of two points), so the number of items is smaller than the number of score points.

Not accounted for with this blueprint: Constructed-Response Writing items.
## Blueprint and Standards, Grades Nine Through Twelve

### Proposed Blueprint Table and California Common Core State Standards en Español (CCCSSeE) Sampling, California Spanish Assessment (CSA), High School, Operational Forms, 2019

<table>
<thead>
<tr>
<th>Claim/Score Reporting Category</th>
<th>Content Category</th>
<th>CCCSSeE 9–10* Sampling**</th>
<th>CCCSSeE 11–12* Sampling**</th>
<th>Item Count</th>
<th>Score Points</th>
<th>Total Items by Content Category</th>
<th>Total Score Points by Content Category</th>
<th>Total Items by Claim</th>
<th>Total Score Points by Claim</th>
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</thead>
<tbody>
<tr>
<td><strong>Reading Claim:</strong> Students can read, analyze, and interpret a variety of texts and genres through Spanish.</td>
<td>Literary</td>
<td>Key Ideas and Details: 9–10.RL.1, 9–10.RL.2, 9–10.RL.3</td>
<td>Key Ideas and Details: 11–12.RL.1, 11–12.RL.2, 11–12.RL.3</td>
<td>4–6</td>
<td>5–7</td>
<td>6–9</td>
<td>7–11</td>
<td>24</td>
<td>27–35</td>
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<tr>
<td></td>
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<td>Integration of Knowledge and Ideas: 9–10.RL.7, 9–10.RL.9</td>
<td>Integration of Knowledge and Ideas: 11–12.RL.7, 11–12.RL.9</td>
<td>1–2</td>
<td>1–3</td>
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<td><strong>Informational</strong></td>
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<td>Key Ideas and Details: 9–10.RI.1, 9–10.RI.2, 9–10.RI.3</td>
<td>Key Ideas and Details: 11–12.RI.1, 11–12.RI.2, 11–12.RI.3</td>
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<td>Integration of Knowledge and Ideas: 9–10.RI.7, 9–10.RI.8, 9–10.RI.9</td>
<td>Integration of Knowledge and Ideas: 11–12.RI.7, 11–12.RI.8, 11–12.RI.9</td>
<td>1–2</td>
<td>1–3</td>
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<td></td>
<td></td>
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</tr>
</tbody>
</table>
**Writing Claim:**
Students can revise writing products that accurately and convincingly present, describe, and explain ideas for a range of purposes and audiences through Spanish.

|---------------------------|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|-----|-----|-----|-----|-----|------|

**Listening Claim:**
Students can comprehend spoken Spanish in a range of contexts.


**TOTALS:** 52 61–66

*Any standard, whether from the 9–10 group or from the 11–12 group, is permitted to be used for testing at the high school level with no restrictions.

**Note that many standards have contributory standards encompassed in the sampling. For instance, 9–10 Language Standard 2 deals with conventions and Standard 2a deals specifically with parallel structure. While Standard 2a is not mentioned above, it is incorporated under the 9–10 Language Standard 2.**

*Not accounted for with this blueprint: Constructed-Response Writing items.*
Draft California Spanish Assessment (CSA)  
Achievement Level Descriptors (ALDs)

In support of biliteracy, with a goal that all students prepare “to live, work, and thrive in a multicultural, multilingual, and highly connected world,”[1] California has developed the California Spanish Assessment (CSA) and the corresponding Achievement Level Descriptors (ALDs). The assessment measures Spanish reading/language arts skills in reading, writing, and listening. The purpose of the ALDs is to assist students, parents/guardians, and educators interpret scores on the CSA, and to communicate a student’s progress toward Spanish literacy by graduation from high school. The descriptors provide a snapshot of student achievement in the current school year.

**Level 3:** Students at Level 3 demonstrate a high degree of grade-appropriate Spanish literacy in reading, writing, and listening, and are on track for being literate in Spanish by graduation.

**Level 2:** Students at Level 2 demonstrate a moderate degree of grade-appropriate Spanish literacy in reading, writing, and listening, but require further development to be on track for being literate in Spanish by graduation.

**Level 1:** Students at Level 1 demonstrate a limited degree of grade-appropriate Spanish literacy in reading, writing, and listening, and require substantial development before being considered on track for being literate in Spanish by graduation.

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### SUBJECT

English Language Proficiency Assessments for California:
Approve the Operational Summative Assessment Threshold Scores and Composite Weights for the English Language Proficiency Assessments for California and Approve the Local Educational Agency Apportionment Rates.

<table>
<thead>
<tr>
<th>Action</th>
<th>Information</th>
<th>Public Hearing</th>
</tr>
</thead>
</table>

### SUMMARY OF THE ISSUE(S)

This item seeks the State Board of Education's (SBE) approval of the State Superintendent of Public Instruction’s (SSPI) recommended threshold scores for the summative English Language Proficiency Assessments for California (ELPAC). This item also presents for approval the weighting of the summative ELPAC composite scores (oral language and written language). Additionally, this item seeks approval of the amount of funding to be apportioned to local educational agencies (LEAs) for the administration of the ELPAC for both summative and initial purposes.

### RECOMMENDATION

Approve the SSPI’s recommended summative ELPAC threshold scores by grade/grade spans for overall scale score, oral language scale score, and written language scale score (see Attachment 2).

Approve the SSPI’s recommended weighting for the reporting hierarchy of the summative ELPAC oral language and written language composite scores (see Attachment 2).

Approve the SSPI’s recommended LEA apportionment rates for the ELPAC:

- $5.00 per pupil administered any portion of the summative assessment (SA)
- $5.00 per pupil administered any portion of the initial assessment (IA)

### BRIEF HISTORY OF KEY ISSUES

The ELPAC is replacing the California English Language Development Test (CELDT) as California’s test for English language proficiency. During the development of the ELPAC, the California Department of Education (CDE) has collaborated with Educational Testing Service (ETS), the Sacramento County Office of Education (SCOE), California educators, and stakeholders.
Proposed Summative ELPAC Threshold Scores

The ELPAC threshold score standard setting workshop took place the weeks of October 17–20, 2017 and October 23–26, 2017. In October 2017, an Information Memorandum, which can be found at: https://www.cde.ca.gov/be/pn/im/infomemoct2017.asp, was submitted to the SBE providing details of the October standard setting process for the ELPAC.

This November item recommends that the SBE adopt the proposed threshold scores established through the standard setting workshop. Attachment 1 provides the educator panel’s recommended threshold scores across the seven grade/grade spans by overall scale score, oral language scale score, and written language scale score. Attachment 2 provides the SSPI’s recommended threshold scores across the seven grade/grade spans by overall scale score, oral language scale score, and written language scale score. The recommendations in Attachment 2 were based on panel recommendations and consultation with select Technical Advisory Group members, as described in the October 2017 Memorandum. Once approved, these proposed threshold scores will be used in the development of student score reports and aggregate reports for English learners (ELs) who take the summative ELPAC starting in spring 2018.

Proposed Summative ELPAC Composite Weights

As the SA becomes operational in spring 2018, composite weights need to be adopted to provide overall scores. Currently, there are two different weight calculations for the overall CELDT score:

- For kindergarten and grade one: 45 percent Listening, 45 percent Speaking, 5 percent Reading, and 5 percent Writing.
- For grades two through twelve, the four domains are weighted equally at 25 percent each.

To arrive at the weight recommendations, Table 1 shows possible composite calculations. Where the CELDT calculated the overall score by domain weight percentages, the ELPAC will calculate the overall score by oral language and written language composites.

The proposed weight calculations in Table 1 are examples of what was considered to determine a student’s overall scale score. During the Integrated Judgments Method of the standard setting workshop, the educator panel reviewed the impact data based upon its recommended professional judgments. The panel then confirmed or made new recommendations for weight calculations based upon this information. Attachment 3 demonstrates the impact data that was used for the SSPI’s recommended weight calculations. To calculate the overall score for students in kindergarten through grade twelve, the CDE is recommending the proposed weightings in Attachment 2 for each grade/grade span.
Table 1. Proposed Composite Weight Calculation (by Percent) for the ELPAC

<table>
<thead>
<tr>
<th></th>
<th>Oral Language Composite (Listening and Speaking)</th>
<th>Written Language Composite (Reading and Writing)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Option 1</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kindergarten</td>
<td>90</td>
<td>10</td>
</tr>
<tr>
<td>Grade 1</td>
<td>70</td>
<td>30</td>
</tr>
<tr>
<td>Grades 2–12</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td><strong>Option 2</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kindergarten</td>
<td>70</td>
<td>30</td>
</tr>
<tr>
<td>Grades 1–12</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td><strong>Option 3</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kindergarten–Grade 12</td>
<td>50</td>
<td>50</td>
</tr>
</tbody>
</table>

The rationale for having different weighting calculations for kindergarten and grade one are twofold: (1) the testing window for the SA has moved from fall to spring which allows a full year of instruction prior to the SA being given, and (2) kindergarten now has its own individual SA so the developmental gains a student makes in grade one can be considered independently.

**Next Steps**

Following the approval of the threshold scores, a threshold score validation study will be conducted in early spring 2018 during the first operational SA window. Additionally, the English Language Proficiency and Spanish Assessments Office will collaborate with the English Learner Support Division and provide them with data to conduct a reclassification criteria study after the first operational SA.

**Proposed LEA Apportionment Rates**

When the ELPAC becomes operational, California *Education Code (EC)* Section 60810(a)(3) requires that the SSPI apportion funds to enable LEAs to meet the requirements of the administration of the ELPAC. For the 2017–18 school year, the ELPAC is comprised of the SA in spring 2018. For the 2018–19 school year and beyond, the ELPAC is comprised of the IA beginning on July 1, 2018, and the SA in spring 2019 and all subsequent years.

The current SBE-approved apportionment rate for the CELDT, which will be replaced by the ELPAC on July 1, 2018, is $5.00 per administration for initial identification purposes, and $5.00 per administration for annual assessment purposes.

The CDE is recommending that for each pupil tested with any portion of the summative ELPAC from February 1, 2018 through May 31, 2018, an LEA would receive $5.00 for that pupil. For each eligible pupil tested with any portion of the initial ELPAC from July 1, 2018 through June 30, 2019, an LEA would receive $5.00 for that pupil. The CDE is
recommending that these apportionment rates for the summative and initial ELPAC be on-going for each school year's administration.

Assessment apportionments are not distributed until the following fiscal year when all testing for the previous year has been completed (i.e., LEAs will be reimbursed in 2018–19 for testing that occurs in 2017–18; they will be reimbursed in 2019–20 for testing that occurs in 2018–19). The assessment apportionment funds are unrestricted funds to reimburse LEAs for the following costs:

1. All staffing costs, including the LEA ELPAC Coordinator, and the Site ELPAC Coordinators, staff training, and other staff expenses such as test administration time related to testing;

2. All expenses incurred at the LEA level and site level related to testing;

3. All transportation costs for delivering and retrieving tests and test materials within the LEA; and

4. All costs associated with the collection and submission of pupil demographic information intended to provide the complete and accurate data required for student group reporting per state regulations

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In October 2017, an Information Memorandum was provided to the SBE on the standard setting and domain weighting process (https://www.cde.ca.gov/be/pn/im/infomemooct2017.asp).

In September 2017, the SBE approved revisions to the summative ELPAC test blueprints, the revised general Performance Level Descriptors (PLDs), and the reporting hierarchy of the summative and initial ELPAC score reports (http://www.cde.ca.gov/be/ag/ag/yr17/agenda201709.asp).

In June 2017, the SBE was provided with a study regarding the ELPAC’s potential transition to a computer-based assessment (http://www.cde.ca.gov/be/pn/im/infomemojun2017.asp).

In March 2017, the SBE approved the commencement of a second 15-day public comment period for the proposed ELPAC regulations (http://www.cde.ca.gov/be/ag/ag/yr17/agenda201703.asp).

In November 2016, the SBE approved the commencement of a 15-day public comment period for the proposed ELPAC regulations (http://www.cde.ca.gov/be/ag/ag/yr16/agenda201611.asp).
In May 2016, the SBE approved the commencement of the rulemaking process for the proposed ELPAC regulations (http://www.cde.ca.gov/be/ag/ag/yr16/agenda201605.asp).

In January 2016, the SBE approved the ELPAC general PLDs which were used to guide the development of domain and grade/grade-span specific PLDs (http://www.cde.ca.gov/be/ag/ag/yr16/agenda201601.asp).

In November 2015, the SBE approved the proposed ELPAC task types and test blueprints, which initiated the development and administration of the ELPAC (http://www.cde.ca.gov/be/ag/ag/yr15/agenda201511.asp).

**FISCAL ANALYSIS (AS APPROPRIATE)**

**ELPAC Threshold Scores**

The 2017–18 Budget Act includes $13.8 million for ETS contract activities, which includes standard setting.

**ELPAC LEA Apportionment Rates**

Each year, the CDE provides the Department of Finance (DOF) with estimated costs per each test for statewide assessment apportionments to be administered in that year for the development of a proposed budget appropriation.

In October 2017, the CDE provided the DOF with estimated costs per each test for statewide assessment apportionments to be administered in 2017–18, including approximately $19.301 million for the California Assessment of Student Performance and Progress System, $9.425 million for the ELPAC apportionments, and $1.25 million for the CELDT apportionments, totaling approximately $29.976 million, for the development of a proposed 2018–19 assessment apportionment budget appropriation.

The estimated ELPAC apportionment amount provided to DOF was calculated based on the proposed SA and IA apportionment amounts requested in this board item. The DOF was made aware that the actual ELPAC apportionment rate was contingent upon approval by the SBE at the November 2017 SBE meeting.

The projected ELPAC apportionment costs, utilizing the recommended per-pupil rates for 2017–18 ELPAC testing, are presented in the table below:

<table>
<thead>
<tr>
<th>Assessment</th>
<th>Per-Pupil Rate</th>
<th>Estimated Pupil Population</th>
<th>Estimated Apportionment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Summative ELPAC¹</td>
<td>$5.00</td>
<td>1,600,000¹</td>
<td>$8,000,000</td>
</tr>
<tr>
<td>Initial ELPAC²</td>
<td>$5.00</td>
<td>285,000²</td>
<td>$1,425,000</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td></td>
<td></td>
<td><strong>$9,425,000</strong></td>
</tr>
</tbody>
</table>
The estimates for the summative ELPAC are based on the number of pupils designated as ELs on the CDE Dataquest Web site for 2015–16, resulting from the administration of the CELDT. Note: This number includes newly identified ELs in 2017–18.

The estimates for the initial ELPAC are based on the number of pupils designated as ELs on the CDE Dataquest Web site for 2015–16, resulting from the administration of the CELDT.

**ATTACHMENT(S)**

Attachment 1: Educator Panel Proposed Threshold and Composite Weight Recommendations will be provided as an Item Addendum.

Attachment 2: State Superintendent of Public Instruction’s Proposed Threshold and Composite Weight Recommendations will be provided as an Item Addendum.

Attachment 3: Impact Data for the Composite Weight Recommendations will be provided as an Item Addendum.
CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2017 AGENDA

General Waiver

SUBJECT

Requests by four local educational agencies to waive portions of Education Code sections 47605 and 47605.1 for four charter schools which concern Nonclassroom-Based Charter School Resource Center Location.

Waiver Numbers:
- Adelanto Elementary School District 16-8-2017
- Big Sur Unified School District 2-8-2017
- Vallecitos Elementary School District 1-9-2017
- Washington Unified School District 12-8-2017

SUMMARY OF THE ISSUES

Four local educational agencies (LEAs) are requesting waivers, on behalf of four charter schools, to allow these nonclassroom-based charter schools’ resource centers to operate outside of the boundaries of the school district, as identified in Attachment 1.

Authority for Waiver: Education Code (EC) Section 33050

RECOMMENDATION

☐ Approval  ☒ Approval with conditions  ☐ Denial

The California Department of Education recommends that the State Board of Education (SBE) approve the requests from the LEAs for each charter school identified in Attachment 1, consistent with the SBE’s Waiver Policy “Nonclassroom-Based Charter School Resource Center Location,” Policy #17-01 approved by the SBE on March 9, 2017, with the following conditions:

1. Require each charter school’s governing body to approve a transition plan that details how the charter school’s resource center(s) will come into compliance with the Anderson court decision.
2. Pursuant to EC Section 33051(b), each waiver shall expire on June 30, 2018, and shall not be retroactive.

3. Require each charter school to submit the transition plan to the authorizing school district, county office of education, and to all school districts identified in Attachment 1 where the resource centers are located, within 30 days after approval of the waiver.

4. Require each charter school to provide a status update to parents.

5. If the authorizer has not visited the resource center(s) pursuant to EC Section 47604.32(a)(2), require the authorizer to visit the resource center(s) within a reasonable time frame.

SUMMARY OF KEY ISSUES

In Anderson Union High School District v. Shasta Secondary Home School (2016) 4 Cal. App. 5th 262 (Anderson), the Third District Court of Appeal (Third District) held that the geographic restrictions in EC sections 47605(a) and 47605.1(d) apply to nonclassroom-based charter schools operating resource centers. Thus, in order to ensure compliance with this court opinion, a nonclassroom-based charter school resource center must operate within the boundaries of its authorizing school district, unless an exception applies. Additionally, the charter school may establish a resource center in an adjacent county.

On January 18, 2017, the California Supreme Court denied review of the Third District’s opinion, which thus became final on that date. In consequence, waiver applications relying on Anderson became ripe for consideration. The policy adopted by the SBE sets forth guidelines for the processing of the waiver applications and to facilitate management of the SBE’s agenda. Consistent with Anderson, waivers shall apply only to existing, noncomplying resource centers of nonclassroom-based charter schools.

Consistent with the SBE’s policy, the LEAs and the charter schools submitted the following additional information, as detailed in Attachment 1:

1. The address of each resource center, school district in which each resource center is located, date each resource center was established, and the number of students attending each resource center.

2. For each resource center subject to the waiver request, discussion of the need for the waiver.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC Section 33051(a), available at
SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION


FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: Summary Table: Nonclassroom-Based Charter School Resource Center Location (2 Pages)

Attachment 2: Adelanto Elementary School District Waiver Request for Taylioni High Desert Academy/Adelanto (#1520) 16-8-2017 (3 Pages). (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Big Sur Unified School District Waiver Request for Big Sur Charter (#1000) 2-8-2017 (3 Pages). (Original waiver request is signed and on file in the Waiver Office.)

Attachment 4: Vallecitos Elementary School District Waiver Request for Taylioni San Diego Academy (#1559) 1-9-2017 (3 Pages). (Original waiver request is signed and on file in the Waiver Office.)

## Nonclassroom-Based Charter School Resource Center Location

<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>Local Educational Agency (Charter Authorizer)</th>
<th>Charter School (CDS Code / Charter Number)</th>
<th>Address of Resource Center</th>
<th>School District(s) Where Resource Center is Located</th>
<th>Date Resource Center Was Established</th>
<th>Number of Students Attending Resource Center</th>
<th>Need for Waiver</th>
</tr>
</thead>
<tbody>
<tr>
<td>16-8-2017</td>
<td>Adelanto Elementary School District</td>
<td>Taylion High Desert Academy/Adelanto (36 67587 0128462 / 1520)</td>
<td>1184 West 2nd Street, #101, San Bernardino, CA</td>
<td>San Bernardino City Unified School District</td>
<td>2013</td>
<td>184</td>
<td>Immediate closure would cause academic harm and disruption to students being served; employment hardship for the staff; and impact ability to meet financial obligations.</td>
</tr>
<tr>
<td>16-8-2017</td>
<td>Adelanto Elementary School District</td>
<td>Taylion High Desert Academy/Adelanto (36 67587 0128462 / 1520)</td>
<td>14196 Amargosa Road, Victorville, CA</td>
<td>Victorville Unified School District / Victor Elementary School District* / Victor Valley Union High School District* / San Bernardino County Office of Education**</td>
<td>2013</td>
<td>93</td>
<td>Immediate closure would cause academic harm and disruption to students being served; employment hardship for the staff; and impact ability to meet financial obligations.</td>
</tr>
<tr>
<td>2-8-2017</td>
<td>Big Sur Unified School District</td>
<td>Big Sur Charter (27 75150 0118349 / 1000)</td>
<td>304 Foam Street, Monterey, CA</td>
<td>Monterey Peninsula Unified School District</td>
<td>2008</td>
<td>91</td>
<td>Immediate closure would cause academic harm and disruption to students being served; employment hardship for the staff; and impact ability to meet financial obligations.</td>
</tr>
</tbody>
</table>
### Nonclassroom-Based Charter School Resource Center Location

**Attachment 1**

**Page 2 of 2**

*Based on a review of the information submitted by the local educational agencies, including the address of the resource center and the school district(s) where the resource center is located, the California Department of Education (CDE) identified an additional school district where the resource center is located.**

**As a result of additional school district(s) where the resource center is located that have been identified by the CDE, the CDE is recommending that the charter school submit the transition plan to the county office of education, in addition to the authorizing school district and school district(s) identified where the resource center is located.**

Created by the CDE, Charter Schools Division, September 2017

<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>Local Educational Agency (Charter Authorizer)</th>
<th>Charter School (CDS Code / Charter Number)</th>
<th>Address of Resource Center</th>
<th>School District(s) Where Resource Center is Located</th>
<th>Date Resource Center Was Established</th>
<th>Number of Students Attending Resource Center</th>
<th>Need for Waiver</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-9-2017</td>
<td>Vallecitos Elementary School District</td>
<td>Taylion San Diego Academy (37 68437 0128470 / 1559)</td>
<td>1661 B South Melrose Drive, Vista, CA</td>
<td>Vista Unified School District</td>
<td>2014</td>
<td>60</td>
<td>Immediate closure would cause academic harm and disruption to students being served; employment hardship for the staff; and impact ability to meet financial obligations.</td>
</tr>
<tr>
<td>1-9-2017</td>
<td>Vallecitos Elementary School District</td>
<td>Taylion San Diego Academy (37 68437 0128470 / 1559)</td>
<td>100 Rancho Santa Fe Road, Suite 110, San Marcos, CA</td>
<td>San Marcos Unified School District</td>
<td>2013</td>
<td>106</td>
<td>Immediate closure would cause academic harm and disruption to students being served; employment hardship for the staff; and impact ability to meet financial obligations.</td>
</tr>
<tr>
<td>12-8-2017</td>
<td>Washington Unified School District</td>
<td>W.E.B DuBois Public Charter (10 76778 1030774 / 0270)</td>
<td>1313 P Street, #205, Fresno, CA</td>
<td>Fresno Unified School District</td>
<td>2000</td>
<td>380</td>
<td>Immediate closure would cause academic harm and disruption to students being served; employment hardship for the staff; and impact ability to meet financial obligations.</td>
</tr>
</tbody>
</table>
Local Education Agency: Adelanto Elementary School District
Address: 11824 Air Expressway
Adelanto, CA 92301

Start: 7/1/2017  End: 6/30/2018
Waiver Renewal: N
Previous Waiver Number:
Previous SBE Approval Date:

Waiver Topic: Charter School Program
Ed Code Title: Geographic Limitations - Non-classroom Based
Ed Code Section: 47605(a)(1), 47605.1(C)
Ed Code Authority: 33050

Authorizer: Adelanto Elementary School District
Charter School: Taylion High Desert Academy

Resource Centers Impacted: Two

For each resource center subject to the waiver request, submit the address of each center, school district in which each center is located, date each resource center was established, and the number of students attending each center

Resource Center:

<table>
<thead>
<tr>
<th>Resource Center 1</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>1184 W. 2nd St #101, San Bernardino, CA. 92410</td>
</tr>
<tr>
<td>School District of Location</td>
<td>San Bernardino Unified</td>
</tr>
<tr>
<td>Established Date</td>
<td>2013</td>
</tr>
<tr>
<td>Total Annual Students Served</td>
<td>184</td>
</tr>
</tbody>
</table>

Resource Center 2

| Address | 14196 Amargosa Rd., Victorville, CA 92392 |
For each resource center subject to the waiver request, discussion of the need for the waiver.

Ed Code or CCR to Waive: In October 2016, an appellate court ruled for the first time that charter locations outside the geographic boundaries of the authorizing school district violate the Charter Schools Act unless certain exceptions apply. Taylion’s service model does not fit within any existing exceptions. The Adelanto Elementary School District is submitting this waiver to give Taylion time to enact a transition plan prior to the close the Taylion San Bernardino site by the end of 2017-2018 school year.

Outcome Rationale: The District seeks a waiver from the State Board of Education pursuant to Education Code section 33050, which authorizes it to waive “all or part of any section of [the Education Code].” In partnership with the Adelanto Elementary School District, Taylion High Desert Academy has expanded the educational opportunities for students in the San Bernardino, Victorville and surrounding communities. This is a home school and independent study program, for families who do not wish to have their children attend traditional schools or for students who work at a slow or faster pace than others in a traditional school setting and require the flexible program at Taylion. In October 2016, an appellate court ruled for the first time that charter locations outside the geographic boundaries of the authorizing school district violate the Charter Schools Act unless certain exceptions apply. Taylion’s service model does not fit within any existing exceptions. The district is granting this one year waiver for Taylion to implement a transition plan for the students in the program. Approval of this waiver will allow Taylion appropriate time to transition and make alternative plans for its students, staff, and vendors in order to comply with the Shasta decision as soon as practicable. Taylion will seek a Charter Petition and/or Workforce Development (47605.1G) partnership. This waiver is critical to the school’s ability to continue serving students in San Bernardino County, many of which would otherwise drop out of school altogether. Immediate closure of the resource center will cause academic harm and disruption to students being served; employment hardship for the staff; and impact ability to meet financial obligations and lease agreements. By approving this waiver, the school will have additional time to come in complaint with the Courts decision.
City Type: Urban

Public Hearing Date: 4/25/2017
Public Hearing Advertised: Advertised as part of the Board agenda and posted online and physically at district office.

Local Board Approval Date: 4/25/2017

Community Council Reviewed By: Governing Board of Education
Community Council Reviewed Date: 4/25/2017
Community Council Objection: N
Community Council Objection Explanation:

Audit Penalty YN: N
Categorical Program Monitoring: N

Submitted by: Dr. Fal Asrani
Position: Chief Academic Officer
E-mail: fal_asrani@aesd.net
Telephone: 760-246-8691 x10240
Fax: 760-246-8295

Bargaining Unit Date: 4/25/17
Name: Adelanto Elementary School District Executive Leadership Representative: Dr. Edwin Gomez
Title: Superintendent
Position: Support
Comments:
Education Code section 47605:
(a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school [within a school district] may be circulated by one or more persons seeking to establish the charter school. A petition for the establishment of a charter school shall identify a single charter school [that will operate within the geographic boundaries of that school district]. A charter school may propose to operate at multiple sites [within the school district] if each location is identified in the charter school petition.

…. (5) [A charter school that is unable to locate within the jurisdiction of the chartering school district may establish one site outside the boundaries of the school district, but within the county in which that school district is located, if the school district within the jurisdiction of which the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent are notified of the location of the charter school before it commences operations, and either of the following circumstances exists]:

Education Code Section 47605.1:
(d) [Notwithstanding subdivision (a) or subdivision (a) of Section 47605, a charter school that is unable to locate within the geographic boundaries of the chartering school district may establish one site outside the boundaries of the school district, but within the county within which that school district is located, if the school district in which the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools is
notified of the location of the charter school before it commences operations, and either of the following circumstances exist):

Outcome Rationale: Big Sur Unified School District has authorized Big Sur Charter School since 2008. We have been operating from this location since August 2016. Big Sur Unified School District provides supervisory oversight for Big Sur Charter School as required by Education Code Section 47604.32. Big Sur Charter School has, at all times, operated its program and resource centers consistent with recommendations by its authorizer as well as written guidance issued by California Department of Education in 2002.

Big Sur Charter School is a non-classroom-based/independent study charter school program offering personalized learning education programs for grades K-12, located in Central California and currently serves 91 students of diverse backgrounds. Approximately 36% of our population is socio-economically disadvantaged. Big Sur Charter School has a special education population of 9%, approximately. The Unduplicated Pupil Population at Big Sur Charter School, for purposes of the LCFF is approximately 36%.

Out of District Facilities:
On October 17, 2016, a decision was made by the appellate court in the case of Anderson Union High School District v. Shasta Secondary Homeschool ("Shasta"), which interpreted California Education Code sections 47605 and 47605.1 related to geographical limitations on where a charter school may operate a resource center.

Big Sur Charter School has one resource center located in the Monterey Peninsula School District, within Monterey County, that is affected by the Shasta ruling. This waiver is necessary in order to protect the operation of Big Sur Charter School’s existing resource center. In order to ensure that necessary services, including Special Education services, RtI and state mandated testing continue, it is necessary for this resource center to remain open.

Students/Employees Affected:
The ruling in Shasta impacts approximately 91 students in grades K-12. Of those students, 36% qualify for free or reduced lunch, and 9 % are Special Education students. At Big Sur Charter School, students benefit from its resource center programs by participating in social/emotional/ and academic intervention, 1-1 tutoring, special education services, small group classes, trainings, workshops, assemblies, and social events. The learning center offers a centralized place for our families and students to connect, thus enhancing their academic and social experiences.

This ruling will also affect 7 staff members and 3 contracted service providers at Big Sur Charter School who utilize its resource center to deliver instruction, meet with students, monitor student progress, tutor, assess, and to collaborate with other staff, students, families and community learning partners.

Financial Impact:
As a non-classroom based charter school, Big Sur Charter School does not receive Prop 39 funds to offset facility costs. The Charter School is required to directly fund any projects, lease costs, and adjustments to the facility.

The impact of the Shasta ruling would result in Big Sur Charter School having to close its
resource center, thus greatly affecting the integrity of our academic program. The resource center is used to provide free and appropriate public education (FAPE) to students who qualify under the Individuals with Disabilities in Education Act (IDEA), academic support, emotional support, state mandated testing, small support classes and other support services. The result of this case may cause Big Sur Charter School to no longer be able to provide these services, thus possibly forcing closure of the charter school.

In summary, the immediate closure of the resource center will cause academic harm and disruption to students being served; employment hardship by staff; and impact the ability to meet financial obligations and lease agreements. By approving this waiver, the school will have additional time to come in compliant with the Court's decision.

Student Population: 91

City Type: Small

Public Hearing Date: 8/2/2017
Public Hearing Advertised: District main office, district website, 3 businesses in district, charter school office, Monterey County Office of Education

Local Board Approval Date: 8/2/2017

Community Council Reviewed By: Big Sur Charter School Board of Directors
Community Council Reviewed Date: 4/1/2017
Community Council Objection: N
Community Council Objection Explanation:

Bargaining Units: Neither Big Sur Unified or Big Sur Charter School have collective bargaining units.

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Gordon Piffero
Position: Superintendent
E-mail: gpiffero@comcast.net
Telephone: 805-927-4507
Fax:
Ed Code or CCR to Waive: Ed Code or CCR to Waive: 47605. (a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within a school district may be circulated by one or more persons seeking to establish the charter school. A petition for the establishment of a charter school shall identify a single charter school [that will operate within the geographic boundaries of that school district.] A charter school may propose to operate at multiple sites [within the school district if each location is identified in the charter school petition.] The petition may be submitted to the governing board of the school district for review after either of the following conditions is met… (no other changes to 47605. (a) (2))

47605.1 (c) Notwithstanding any other law, a charter school may establish a resource center, meeting space, or other satellite facility located in a county [adjacent to that] in which the charter school is authorized if … (No other changes to 47605.1(c))

Outcome Rationale: In partnership with the Vallecitos Elementary School District ("District"), Taylion San Diego Academy ("Taylion") has expanded the educational opportunities available to students in the Fallbrook and surrounding communities. Taylion was established because there has been a growing trend of children experiencing depression, and/or social-emotional issues not suitably addressed in a large comprehensive high school setting. This has resulted in lower test scores impacting student learning, and also contributed to an increase in middle and high school dropout rates. Taylion provides students with a nurturing and safe educational environment through a small school setting with a reduced teacher-to-student ratio, and provides students with access to numerous resources to address academic and social-emotional development.

The school aims to serve the students who historically might have dropped out of traditional public school and slipped through the cracks. Many families at Taylion are not interested in enrolling their child in a traditional school because they prefer homeschool or Independent
Studies. Others recognize that their child works at a slower or faster pace than a traditional school setting, so they seek the flexibility of Taylion's program. Other students come to the school because they are struggling, often finding themselves deficient in credits and unable to graduate. Taylion offers an educational program that is flexible and tailored to fit each student’s needs. Taylion focuses on these students because they believe that everyone deserves the opportunity to continue their pursuit of education, graduate from high school, and eventually become productive members of the community.

The resource center at 1661 B S. Melrose Dr, Vista CA 92081 and 100 Rancho Santa Fe Rd., Suite 110, San Marcos, CA. 92069 regularly provides students with a place to receive academic support, meet with a teacher, receive tutoring, use a computer, check out a textbook or collaborate with other students. Three staff members work at the center permanently, including Two Certificated Teachers and One Receptionist/Outreach personal. Two support teachers attend on a weekly basis for Math, English, and Special Education support. In addition, the principal and counselor check in occasionally with students and staff members. Sixty of our students reside within Vista Unified School District, Onehundered and six students within the San Marcos District so this waiver would allow us to continue providing critical educational resources near students’ homes so they aren’t forced to travel to access them.

We are in need of the Waiver to limit the academic harm and disruption to students being served; and fiscal impact of lease agreements, salary, benefits, and letting down the families we serve. Students will negatively be impacted on their ability to remediate or accelerate in the courses. If the resource center is closed, many students will also face transportation concerns to attend Taylion. Students with IEP’s along with ELL students will also lose access to their supports in the Vista and San Marcos Resource Centers. Taylion is the only school in the district that allows the students to work at their own pace with a college and career focus. Students and families will also lose access to their teachers and our computer lab with wi-fi services.

Approval of this waiver will allow Taylion appropriate time to transition and make alternative plans for its students, staff, and vendors in order to comply with the Shasta decision as soon as practicable. Taylion will seek a Charter Petition and/or Workforce Development (47605.1G) partnership. This waiver is critical to our school's ability to continue serving our students in San Diego County, many of which would otherwise drop out of school altogether.

Student Population: 75

City Type: Suburban

Public Hearing Date: 4/25/2017
Public Hearing Advertised: Posted at District Office

Local Board Approval Date: 4/25/2017

Community Council Reviewed By: Vallecitos School District Board and SuperIntendent/Principal
Community Council Reviewed Date: 6/13/2017
Community Council Objection: N
Community Council Objection Explanation:

Audit Penalty YN: N
Categorical Program Monitoring: N

San Marcos Resource Center was established: 2013
Vista Resource Center was established: 2014
Name of the District Bargaining Unit: Vallecitos Educators Association
Name and Title of the Representative Contacted: Christine Kara – Site Representative
Date the Representative of the Bargaining Unit was consulted: 8-8-2017
Position of the Bargaining Unit: Neutral

Submitted by: Mr. Gary Wilson
Position: Interim Superintendent/Principal
E-mail: gwilson@vallecitossd.net
Telephone: 760-728-7092 x229
Fax:
Nonclassroom-Based Charter School Resource Center Location
Attachment 5
Page 1 of 2

California Department of Education
WAIVER SUBMISSION - General

CD Code: 1076778  Waiver Number: 12-8-2017  Active Year: 2017

Date In: 8/22/2017 12:13:53 PM

Local Education Agency: Washington Unified School District
Address: 7950 S. Elm Ave
Fresno, CA 93706

Start: 7/1/2017  End: 6/30/2018

Waiver Renewal: N  Previous Waiver Number:
Previous SBE Approval Date:

Waiver Topic: Charter School Program
Ed Code Title: Geographic Limitations - Non-classroom Based
Ed Code Section: 47605(a)(1), 47605.1(c)
Ed Code Authority: 33050

Ed Code or CCR to Waive: Ed Code or CCR to Waive: 47605. (a) (1) Except as set forth in
paragraph (2), a petition for the establishment of a charter school within a school district may be
circulated by one or more persons seeking to establish the charter school. A petition for the
establishment of a charter school shall identify a single charter school [that will operate within
the geographic boundaries of that school district.] A charter school may propose to operate at
multiple sites [within the school district if each location is identified in the charter school petition.]
The petition may be submitted to the governing board of the school district for review after either
of the following conditions is met...(no other changes to 47605. (a) (2))
47605.1 (c) Notwithstanding any other law, a charter school may establish a resource center,
meeting space, or other satellite facility located in a county [adjacent to that] in which the charter
school is authorized if ...(No other changes to 47605.1(c))

Outcome Rationale: The district seeks a waiver from the State Board of Education pursuant to
Education Code section 33050, which authorizes it to waive "all or part of any section of the
Education Code 47605(a)(1), 47605.1 (c) under Education Code Authority 33050. W.E.B.
DuBois Charter school was chartered August 1999 by the District and approved by the State of
School is authorized by the district to operate an Independent Study Charter Resource Satellite
on January 19, 2000, located in the Fresno Unified School District at 1313 P Street #205,
Fresno, California, 93721. The resource satellite serves 380 students that are at-risk,
disadvantaged, homeless, foster-care, expelled, along with students seeking credit recovery.
This innovation has brought much needed services to students seeking a personalized learning
option to reclaim their high school diploma. It is also critical that the school continue to offer the
charter resource satellite until such time they will create a plan before the waiver expiration date
to come into compliance with the state regulations. This will also allow existing enrolled students
to finish with their charter school original name on their diploma for this year. This unique model
does not fit within any existing exceptions as the charter operates a blended learning model with
hybrid features. Immediate closure would cause academic harm and disruption to students
served; employment hardship to the staff; and impact the ability to meet financial obligations and lease agreements.

Student Population: 380

City Type: Urban

Public Hearing Date: 8/21/2017
Public Hearing Advertised: Posted online, posted at each school site, and at District Office

Local Board Approval Date: 8/21/2017

Community Council Reviewed By: WEB Dubois Advisory Committee
Community Council Reviewed Date: 8/21/2017
Community Council Objection: N
Community Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. Hank Gutierrez
Position: Assistant Superintendent
E-mail: hgutierrez@wusd.ws
Telephone: 559-495-5636
Fax:

Bargaining Unit Date: 08/14/2017
Name: WUSD California School Employees Association
Representative: Sal Fonseca
Title: President
Position: Support
Comments:
CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2017 AGENDA

General Waiver

SUBJECT

Request by Santa Clara Unified School District to waive California Education Code Section 37202(a), the equity length of time requirement for transitional kindergarten and kindergarten programs at the districts’ elementary schools.

Waiver Number: 8-8-2017

SUMMARY OF THE ISSUES

Santa Clara Unified School District (SCUSD) seeks a waiver of the California Education Code (EC) Section 37202(a), equity length of time requirement for kindergarten and transitional kindergarten (TK).

Authority for Waiver: Education Code (EC) Section 33050

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends approval of the waiver with conditions. The SCUSD will provide information to SCUSD families by January 19, 2018, explaining the waiving of EC Section 37202(a), allowing TK students to attend school for fewer minutes than kindergarten students.

SUMMARY OF KEY ISSUES

The SCUSD is requesting to waive EC Section 37202(a), the equity length of time requirement for kindergarten programs. Pursuant to EC Section 37202(a), any TK program operated by a district must be of equal length to any kindergarten program operated by the same district. The SCUSD currently offers extended-day (full day) kindergarten programs which exceed the maximum four-hour school day (EC 46111 [a]). The SCUSD is requesting flexibility in determining the length of its TK programs in
order to provide a modified instructional day, curricula, and developmentally appropriate instructional practices. The SCUSD is concerned that holding TK students in excess of the four-hour minimum school day (pursuant to EC 48911) is not in the best educational interest of their TK students.

SCUSD is requesting a retroactive waiver for the 2015-16 and 2016-17 school years. Assembly Bill 99, Chapter 15, Statutes of 2017, amended EC 37202 to authorize districts to maintain a kindergarten or TK program for different lengths of time at the same or different school site. This bill was signed by the Governor on June 27, 2017 and is an urgency statute that takes effect immediately. Therefore, districts will no longer need to seek a waiver of this provision for the 2017-18 school year and beyond.

Demographic Information:

SCUSD has a student population of 15,409, and is located in a suburban area in Santa Clara County.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a), available at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education has approved with conditions all waiver requests to date by local educational agencies to waive EC Section 37202(a), the equity length of time requirement for kindergarten and TK.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of this waiver would have no known fiscal impact.

ATTACHMENT(S)

Attachment 1: Summary Table (1 page).

Attachment 2: SCUSD General Waiver Request 8-8-2017 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
Information from District Requesting Waiver of Equity Length of Time for Transitional Kindergarten
California *Education Code* Section 37202(a)

<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>District</th>
<th>Period of Request</th>
<th>Bargaining Unit, Representatives Consulted, Date, and Position</th>
<th>Public Hearing and Board Approval Date</th>
<th>Public Hearing Advertisement</th>
<th>SSC/Advisory Committee Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>8-8-2017</td>
<td>Santa Clara Unified School District</td>
<td><em>Requested:</em> August 14, 2014 to June 8, 2018</td>
<td>United Teachers of Santa Clara, Michael Hickey President 8/10/2017 Support</td>
<td>August 10, 2017</td>
<td>The public hearing notice was posted on the district Web site, in the district office, and throughout the community.</td>
<td>Santa Clara Unified Board of Education August 10, 2017 No Objection</td>
</tr>
</tbody>
</table>

Created by California Department of Education
September, 2017
Outcome Rationale: Santa Clara Unified School District is requesting that, as part of our early primary program, we may maintain kindergarten and transitional kindergarten (TK) classes at the same school sites within the District for different lengths of time during the school day. Our teaching staff and administration believe that requiring our TK students to attend school for an extended day would not be in their best educational interest. Our TK program provides students with developmentally appropriate, experiential activities and is preparing them for the more academically rigorous second year of our kindergarten program. We are respectfully requesting a retroactive waiver and will apply for future waivers on an annual basis.

Student Population: 15409

City Type: Suburban

Public Hearing Date: 8/10/2017
Public Hearing Advertised: website, district office posting and posting throughout the community

Local Board Approval Date: 8/10/2017
Community Council Reviewed By: Santa Clara Unified Board of Education
Community Council Reviewed Date: 8/10/2017
Community Council Objection: N
Community Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Kathie Kanavel
Position: Assistant Superintendent, Educational Services
E-mail: kkanavel@scusd.net
Telephone: 408-423-2124
Fax:

Bargaining Unit Date: 8/10/17
Name: Michael Hickey
Representative: United Teachers of Santa Clara (UTSC)
Title: President, UTSC
Position: Support
Comments: Non
Califonia Department of Education
Executive Office
SBE-007 Federal (REV. 02/2014)

Item #W-03

California State Board of Education

November 2017 Agenda

Federal Waiver

Subject
Request by two school districts for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).

Waiver Numbers:
- Mariposa County Unified School District Fed-16-2017

Summary of the Issues

The California Department of Education recommends approval to waive the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Perkins Act), Public Law 109-270 Section 131(c)(1), which requires local educational agencies (LEAs) whose allocations are less than $15,000 to enter into a consortium with other agencies. If they are unable to do so, under Section 131(c)(2), they may waive the consortium requirement if the LEA is in a rural, sparsely populated area, or is a public charter school operating secondary vocational and technical education programs, and is unable to join a consortium, thus allowing the districts to meet the needs of their students.

Authority for Waiver: Federal Waiver Authority (Public Law 109-270) Section 131(c)(2).

Recommendation

- Approval
- Approval with conditions
- Denial

Summary of Key Issues

The criterion for qualifying for this waiver is demonstration that the LEAs cannot form or join a consortium that handles the Perkins Act funds. There are no other districts in the local area willing to join in a consortium. The Districts are located in various rural counties and have student populations ranging from 1,806 to 2,487. Districts are seeking waivers to function independently in order to meet the needs of the students in the district.
Local board approval date(s): Various

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Section 131(c)(1) of the Perkins Act requires LEAs whose allocations are less than $15,000 to enter into a consortium with other LEAs for the purpose of meeting the $15,000 minimum grant requirement. Section 131(c)(2) of the Perkins Act permits states to waive the consortium agreement if the LEA is in a rural, sparsely populated area or is a public charter school operating secondary vocational and technical education programs, and is unable to join a consortium.


The SBE has approved all waivers of this statute that have been presented to it to date.

Demographic Information:

Mariposa County Unified School District has a student population of 1,806 and is located in a Rural: Remote (43) area in Mariposa County

Templeton Unified School District has a student population of 2,487 and is located in a Suburb: Small (23) area in San Luis Obispo County.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval will enable these Districts to receive an annual Perkins Act allocation that is listed on Attachment 1. The waiver has no significant effect on the distribution of Perkins Act funds statewide.

ATTACHMENT(S)

Attachment 1: Districts Requesting Carl D. Perkins Career and Technical Education Waivers (1 page)

Attachment 2: Mariposa County Unified School District Federal Waiver Request Fed-16-2017 (1 page) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Templeton Unified School District Federal Waiver Request Fed-15-2017 (1 page) (Original waiver request is signed and on file in the Waiver Office.)
## Districts Requesting Carl D. Perkins Career and Technical Education Waivers

<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>District</th>
<th>Period of Request</th>
<th>Local Board Approval Date</th>
<th>NCES Locale Code</th>
<th>Demographic Information</th>
<th>Perkins Act Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fed-16-2017</td>
<td>Mariposa County Unified School District</td>
<td>Requested: July 1, 2017, to June 30, 2021</td>
<td>April 13, 2017</td>
<td>43</td>
<td>Student Population of 1,806 located in Mariposa County</td>
<td>$14,761</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Recommended: July 1, 2017, to June 30, 2021</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Recommended: July 1, 2017, to June 30, 2021</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
California Department of Education
WAIVER SUBMISSION - Federal

CD Code: 2265532          Waiver Number: Fed-16-2017          Active Year: 2017

Date In: 9/6/2017 8:47:37 AM

Local Education Agency: Mariposa County Unified School District
Address: 5082 Old Highway North
Mariposa, CA 95338

Start: 7/1/2017          End: 6/30/2021
Waiver Renewal: N
Previous Waiver Number:    Previous SBE Approval Date:

Waiver Topic: Federal Program Waiver
Ed Code Title: Carl D. Perkins Voc and Tech Ed Act
Ed Code Section: PL 109-270 Section 131(c)(1)
Ed Code Authority: PL 109-270 Section 131(c)(2)

Ed Code or CCR to Waive: EC Section: PL 109-270 Section 131(c)(1)
EC Authority: PL 109-270 Section 131(c)(2)

Outcome Rationale: Mariposa County High School has always received funding above the $15,000 threshold. We have received notification due to decreased funding to California that our funding is expected to fall below the minimum allocation of $15,000. We are a single district within the county and regionally isolated. These factors prevent Mariposa County High School from being able to join a consortium. The funding is needed to continue providing adequate career technical education for our students.

Student Population: 1819

City Type: Rural

NCES Code: 43

Local Board Approval Date: 4/13/2017

Submitted by: Ms. Celeste Azevedo
Position: Principal
E-mail: aramsey@mcusd.org
Telephone: 209-742-0260 x2222
Fax: 209-966-6895
California Department of Education  
WAIVER SUBMISSION - Federal


Date In: 8/25/2017 12:46:14 PM

Local Education Agency: Templeton Unified School District
Address: 960 Old County Rd.
Templeton, CA 93465

Start: 7/1/2017     End: 6/30/2021

Waiver Renewal: Y  Previous Waiver Number: Fed-6-2013-W-01  Previous SBE Approval Date: 8/24/2017

Waiver Topic: Federal Program Waiver
Ed Code Title: Carl D. Perkins Voc and Tech Ed Act
Ed Code Section: PL 109-270 Section 131(c)(1)
Ed Code Authority: PL 109-270 Section 131(c)(2)

Ed Code or CCR to Waive: Carl D. Perkins Career and Technical Education Improvement Act of 2006, Public Law 109-270 Section 131(d)(1), that requires local agencies whose allocations are less than $15,000 to enter into a consortium with other agencies for the purpose of meeting the $15,00 minimum grant requirement.

Outcome Rationale: Templeton High School is seeking a waiver based upon Section 131(d)(2) of the Career Technical Education and Improvement Act of 2006 that permits states to waive the consortium requirement in any case in which the local education agency (a) is in a rural, sparsely populated area, or is a public charter school operating a secondary vocational and technical education program; and (b) demonstrates it is unable to enter into a consortium to participate in the Perkins funding.

Neither of the two neighboring urban districts are interested in a consortium with us because they do not need us to attain their grant. The closest rural district is 35 miles away. A consortium was attempted in the past, but it failed due to the large distance between our schools, making articulation and joint participation nearly impossible.

Because of these two reasons, we seek to extend our waiver.

Student Population: 745
City Type: Rural
NCES Code: 42
Local Board Approval Date: 8/24/2017

Submitted by: Ms. Laura Clark
Position: Administrative Secretary
E-mail: lclark@templetonusd.org
Telephone: 805-434-5890
Fax: 805-434-0743
California State Board of Education

November 2017 Agenda

Specific Waiver

SUBJECT
Request by Moorpark Unified School District under the authority of the California Education Code Section 46206(a), to waive Education Code Section 46200, the audit penalty for offering fewer instructional days in the 2016–17 school year for students in grades six through eight (shortfall of one day) at district schools.

Waiver Number: 10-8-2017

SUMMARY OF THE ISSUE(S)

The Moorpark Unified School District (MUSD) is requesting that the California State Board of Education (SBE) waive the instructional time requirement audit penalty for MUSD. MUSD was short instructional days for the 2016–17 school year. Per Education Code (EC) Section 46206(a), the SBE may waive the fiscal penalties for a school district or county office of education that fails to maintain the prescribed minimum length of instruction, upon the condition that the school or schools in which the days were lost maintain days of instruction equal to those lost, in addition to the minimum amount required, for twice the number of years that it failed to maintain the required minimum length of time.

Authority for Waiver: EC Section 46206(a)

RECOMMENDATION

☐ Approval ☑ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends that the SBE approve this waiver on the condition that the MUSD maintains increased instructional days at Mesa Verde Middle School and Chaparral Middle School for grades six through eight of at least the amount required by law plus one day for grades six through eight for a period of two years beginning in 2017–18 through 2018–19. As an additional condition of the waiver approval, the district must report the annual instructional days offered by the district in grades six through eight in its annual audit report.

SUMMARY OF KEY ISSUES

During an audit of instructional days for 2016–17 it was discovered that the MUSD failed to offer the required number of days for grades six through eight at Mesa Verde Middle
School and Chaparral Middle School.

The MUSD would like to use school years 2017–18 and 2018–19 to make up the shortfall of instructional days at Mesa Verde Middle School and Chaparral Middle School. The minimum number of required annual instructional days for grades six through eight in 2017–18 and 2018–19 is 180.

**SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

The SBE has approved similar requests with conditions. EC Section 42606 authorizes waivers to be granted for fiscal penalties due to a shortfall in instructional time. A waiver may be granted upon the condition that the school or schools, in which the days were lost, maintain days of instruction equal to those lost, in addition to the minimum amount required for twice the number of years that it failed to maintain the required minimum length of time.

**Demographic Information:** MUSD has a student population of 6,620 and is located in a suburban area in Ventura County.

**FISCAL ANALYSIS (AS APPROPRIATE)**

Refer to Attachment 1 for detailed calculations of the instructional day and minute penalty amounts for the waiver.

**ATTACHMENT(S)**

Attachment 1: Fiscal Analysis (1 page)

Attachment 2: Summary Table (1 page)

Attachment 3: Moorpark Unified School District Specific Waiver Request 10-8-2017 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
### Fiscal Analysis

**Instructional Day Penalty Calculation – *Education Code* Section 46200**

<table>
<thead>
<tr>
<th>School District (Waiver Number)</th>
<th>Fiscal Year of Penalty</th>
<th>Affected Grade level(s)</th>
<th>Affected Grade Level ADA</th>
<th>Transition or Target LCFF Funding Rate</th>
<th>Affected Funding</th>
<th>Number of Days Required</th>
<th>Number of Days Short</th>
<th>Penalty Factor</th>
<th>Penalty Amount (Affected Funding x Days Short x Penalty Factor)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moorpark Unified School District (10-8-2017)</td>
<td>2016–17</td>
<td>Grade 6</td>
<td>413.52</td>
<td>$7,409.84</td>
<td>$3,064,117</td>
<td>180</td>
<td>1</td>
<td>0.0056</td>
<td>$17,159</td>
</tr>
<tr>
<td>2016–17</td>
<td>Grades 7–8</td>
<td>932.95</td>
<td>$7,538.64</td>
<td>$7,033,174</td>
<td>180</td>
<td>1</td>
<td>0.0056</td>
<td>$39,386</td>
<td>$56,545</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Summary Table

<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>District</th>
<th>Period of Request</th>
<th>District’s Request</th>
<th>CDE Recommendation</th>
<th>Bargaining Unit Representatives Consulted Date, and Position</th>
<th>Local Board Approval Date</th>
<th>Potential Annual Penalty Without Waiver</th>
</tr>
</thead>
<tbody>
<tr>
<td>10-8-2017</td>
<td>Moorpark Unified School District</td>
<td>Requested: July 1, 2016 to June 30, 2017</td>
<td>District requests waiving EC Section 46200 to avoid the audit penalty in exchange for offering increased instructional days in 2017–18 and 2018–19, consistent with EC Section 46206.</td>
<td>Approval of waiver, consistent with EC Section 46206 with the following conditions: District: (1) maintains increased instructional days for grades six through eight of at least the amount required by law plus one day, for a period of two years beginning in 2017–18 through 2018–19, and (2) reports the annual instructional days offered in grades six through eight in its annual audit report.</td>
<td>Classified Schools Employee Association Fox Beam, President Support</td>
<td>8/15/2017</td>
<td>$56,545</td>
</tr>
</tbody>
</table>

Created by California Department of Education
August 24, 2017
Instructional Time Requirement Audit Penalty

Attachment 3

Page 1 of 2

California Department of Education
WAIVER SUBMISSION - Specific

CD Code: 5673940 Waiver Number: 10-8-2017 Active Year: 2017

Date In: 8/16/2017 1:26:37 PM

Local Education Agency: Moorpark Unified School District
Address: 5297 Maureen Lane
Moorpark, CA 93021

Start: 1/22/2018 End: 1/21/2019

Waiver Renewal: N Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: Instructional Time Requirement Audit Penalty
Ed Code Title: Below 1982-83 Base Minimum Minutes
Ed Code Section: California Education Code 46200
Ed Code Authority: California Education Code 46206(b)

Ed Code or CCR to Waive: Withholding from school districts' local funding formula grant apportionment; schools offering less than 180 days of instruction or multitrack year-round schools offering fewer than required number of days' calculation of amount withheld.

Outcome Rationale: During the 2016-17 school year, the District offered one day at the end of the school year (Promotion Day) at both Chaparral Middle School and Mesa Verde Middle School where grades 6 through 8 were only scheduled for 110 minutes. The waiver is necessary to offer one additional instructional day during the 2017-2018 and 2018-2019 school years in order to provide our students with the opportunity to recoup the missed day of instruction.

Student Population: 6620

City Type: Suburban

Local Board Approval Date: 8/15/2017

Audit Penalty YN: Y

Categorical Program Monitoring: N

Submitted by: Dr. Kelli Hays
Position: Superintendent
E-mail: khays@mrpk.org
Telephone: 805-378-6300 x1702
Fax: 805-531-8936
Bargaining Unit Date: 08/10/2017
Name: Classified Schools Employee Association
Representative: Fox Beam
Title: President
Position: Support
Comments:

Bargaining Unit Date: 08/14/2017
Name: Moorpark Educators Association
Representative: Brian Friefeld
Title: Moorpark Educators Association President
Position: Support
Comments:
CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2017 AGENDA

General Waiver

SUBJECT
Request by two school districts to waive a portion of California Education Code Section 35330(b)(3), to authorize expenditures of school district funds for students to travel out of state.

Waiver Numbers: Alhambra Unified School District 15-8-2017
Coachella Valley Unified School District 9-8-2017

SUMMARY OF THE ISSUES

The local educational agencies listed above are requesting that the California State Board of Education (SBE) waive California Education Code (EC) Section 35330(b)(3) to authorize expenditures of school district funds for their students to travel out of state in connection with specified trips as identified in Attachment 1.

Authority for Waiver: Education Code (EC) Section 33050

RECOMMENDATION

Approval □ Approval with conditions □ Denial

The California Department of Education (CDE) recommends that the SBE approve the waiver requests by these local educational agencies (LEAs) to authorize expenditures of school district funds for out of state travel for their students for the recommended periods, and in connection with the activities shown in Attachment 1. Pursuant to Section 2 of Assembly Bill 341 (Chapter 40, Statutes of 2017), the prohibition for school districts to pay expenses of pupils participating in a field trip or excursion out of state will be removed effective January 1, 2018, thus eliminating the need for future waivers.

Approval of the waiver requests applies to EC Section 35330(b)(3) related to out of state travel. This waiver is not waiving any program requirements on allowable uses of funds under a specific program. School districts are still subject to any restrictions that may apply to the specific programs.

SUMMARY OF KEY ISSUES

School districts may conduct field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or school band
activities to and from places in the state, any other state, the District of Columbia, or a foreign country for students enrolled in elementary or secondary schools. The provisions of EC Section 35330(b)(3) prohibits school districts from paying for out of state travel expenses of the students participating in these field trips or excursions.

**Alhambra Unified School District (AUSD)**
In June 2017, students from the Health Occupation Students of America (HOSA) team from San Gabriel High School competed in the regional HOSA competition and qualified to compete at the national competition in Orlando, Florida.

**Coachella Valley Unified School District (CVUSD)**
In June 2017, students from the Coachella Valley High School’s Health Academy competed in the regional HOSA competition and qualified to compete at the national competition in Orlando, Florida.

Based on the reasons provided by the LEAs for traveling out of state, the CDE recommends approval of these waivers to authorize expenditures of school district funds for the activities and recommended periods shown in Attachment 1.

**Demographic Information:**

The AUSD has a student population of 17,301 and is located in the urban city of Alhambra in Los Angeles County.

The CVUSD has a student population of 18,000 and is located in the town of Thermal in rural Riverside County.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a), available at [http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051).

**SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

The SBE approved all similar waivers in the past. Most recently, at the September 2017 SBE meeting, out of state waivers for Apple Valley Unified School District, Chico Unified School District, Rowland Unified School District, and San Pasqual Valley Unified School District were approved.

**FISCAL ANALYSIS (AS APPROPRIATE)**

There is no statewide fiscal impact of waiver approval or denial.

**ATTACHMENT(S)**

Attachment 1: Summary Table (1 page)
Attachment 2: Alhambra Unified School District General Waiver Request
15-8-2017 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Coachella Valley Unified School District General Waiver Request
9-8-2017 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
## Summary Table

*Education Code Section 35330(b)(3)*

<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>District</th>
<th>Period of Request</th>
<th>District’s Request</th>
<th>CDE Recommended Action</th>
<th>Local Board Approval Date</th>
<th>Bargaining Unit(s), Consulted, Date, and Position</th>
<th>Potential Annual Penalty Without Waiver</th>
<th>Previous Waivers</th>
</tr>
</thead>
<tbody>
<tr>
<td>15-8-2017</td>
<td>Alhambra Unified School District</td>
<td><strong>Requested:</strong> June 21, 2017 to June 24, 2017</td>
<td>To authorize expenditures of school district funds for its students who traveled out-of-state to Florida to attend the HOSA Nationals.</td>
<td>Approval</td>
<td>08/29/2017</td>
<td>Alhambra Teachers Association, Tammy Scorcia, President 08/29/2017 Support</td>
<td>No statewide fiscal impact of waiver approval or denial.</td>
<td>No</td>
</tr>
<tr>
<td>9-8-2017</td>
<td>Coachella Valley Unified School District</td>
<td><strong>Requested:</strong> June 19, 2017 to June 25, 2017</td>
<td>To authorize expenditures of school district funds for its students who traveled out-of-state to Florida to attend the HOSA Nationals.</td>
<td>Approval</td>
<td>04/27/2017</td>
<td>Coachella Valley Teachers Association, Carissa Carrera, President 08/28/2017 Support</td>
<td>No statewide fiscal impact of waiver approval or denial.</td>
<td>No</td>
</tr>
</tbody>
</table>

Created by the California Department of Education
September 22, 2017
CD Code: 1975713  Waiver Number: 15-8-2017  Active Year: 2017

Date In: 8/30/2017 10:07:00 AM

Local Education Agency: Alhambra Unified School District
Address: 1515 West Mission Rd.
Alhambra, CA 91803

Start: 6/21/2017  End: 6/24/2017
Waiver Renewal: N

Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Out-of-State Use of Funds and Transportation Allowances
Ed Code Title: Out-of-State Use of Funds and Transportation Allowances
Ed Code Section: 33051(b)
Ed Code Authority: 33051(b)

Ed Code or CCR to Waive: 33051(b) The governing board of a school district that has requested and received a general waiver under this article for two consecutive years for the same general waiver is not required to reapply annually if the information contained on the request remains current. The state board may require updated information for the request whenever it determines that information to be necessary. This section does not prevent the state board from rescinding a waiver if additional information supporting a rescission is made available to the board. This waiver process shall not apply to waivers pertaining to teacher credentialing, which shall be submitted to the state board annually.

Outcome Rationale: Request for student attendance to: Health Occupations Students of America (HOSA) International Leadership Conference
1. Attendance meets Career Technical Education and Industry Specific standards for Health Science and Medical Terminology.
2. Provides leadership opportunities and demonstration of leadership skills at International/ National Level per Perkins allowable activities.
3. There is no equivalent conference within the State of California for HOSA students. Request for this to be retroactive.

Student Population: 17301
City Type: Urban

Public Hearing Date: 8/29/2017
Public Hearing Advertised: Posted at Alhambra Unified School District (AUSD) Office, Board of Education, AUSD elementary and secondary school sites, City of Alhambra City Council Office, City of Alhambra Public Library

Local Board Approval Date: 8/29/2017

Community Council Reviewed By: Alhambra Unified School District Board of Education, CTE Advisory Committee
Community Council Reviewed Date: 8/29/2017
Community Council Objection: N
Community Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Judy Huffaker
Position: Career Technical Education Specialist
E-mail: huffaker_judy@ausd.us
Telephone: 626-943-6990
Fax: 626-308-2585

Bargaining Unit Date: 8/29/2017
Name: Alhambra Teachers Association
Representative: Tammy Scorcia
Title: President
Position: Support Comments: In full support and agreement of the waiver submission for student out-of-state CTSO related travel
California Department of Education
WAIVER SUBMISSION - General

CD Code: 3373676 Waiver Number: 9-8-2017 Active Year: 2017

Date In: 8/16/2017 12:51:37 PM

Local Education Agency: Coachella Valley Unified School District
Address: 87-225 Church St.
Thermal, CA 92274

Start: 6/19/2017 End: 6/25/2017

Waiver Renewal: N
Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: Out-of-State Use of Funds and Transportation Allowances
Ed Code Title: Out-of-State Use of Funds and Transportation Allowances
Ed Code Section: 35330
Ed Code Authority: 33050

Ed Code or CCR to Waive: No] expenses of pupils participating in a field trip or excursion to other state, the District of Columbia, or a foreign country authorized by this section shall be paid with school district funds. Expenses of instructors, chaperones, and other personnel participating in a field trip or excursion authorized by this section may be paid from school district funds, and the school district may pay from school district funds all incidental expenses for the use of school district equipment during a field trip or excursion authorized by this section.

Outcome Rationale: Students from Coachella Valley High School's Health Academy competed at the Regional HOSA competition and qualified to compete at the National competition in Orlando Florida. The district used Perkins funding for student and teacher travel and was asked to submit a waiver to be retro active for the trip.

Student Population: 18000

City Type: Rural

Public Hearing Date: 4/27/2017
Public Hearing Advertised: District Website

Local Board Approval Date: 4/27/2017

Community Council Reviewed By: School Site Council
Community Council Reviewed Date: 3/28/2017
Community Council Objection: N
Community Council Objection Explanation:
Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Marie Perotti
Position: CTE Coordinator
E-mail: marie.perotti@cvusd.us
Telephone: 760-848-1037
Fax:

Bargaining Unit Date: 8/28/2017
Name: Coachella Valley Teachers Association
Representative: Carissa Carrera
Title President
Comments: Sent an email to union president after clarification of how to file a retroactive waiver on 8/28/2017.
## General Waiver

**SUBJECT**
Request by two school districts to waive all or portions of California Education Code sections specific to statutory provisions for the sale or lease of surplus property.

Waiver Numbers:
- Jurupa Unified School District 13-7-2017
- San Bruno Park Elementary School District 1-7-2017

### SUMMARY OF THE ISSUES

The Jurupa Unified School District is requesting a waiver of California Education Code sections 17455, 17461, 17468, 17469, 17470, 17472, 17473, 17474, 17475, 17476, 17477, and 17478, which will allow the district to sell one piece of property using a “request for proposal” process, thereby maximizing the proceeds of the sale. The State Board of Education (SBE) previously approved Waiver Number 5-7-2014-W-08 on November 4, 2014, which expired on July 19, 2016.

The San Bruno Park Elementary School District is requesting a waiver of California Education Code sections 17455, 17466, 17469, 17472, 17473, 17474, and 17475, which will allow the district to sell one piece of property using a “request for proposal” process, thereby maximizing the proceeds of the sale.

**Authority for Waiver:** Education Code (EC) Section 33050

### RECOMMENDATION

- ☑ Approval  ☑ Approval with conditions  ☐ Denial

The California Department of Education recommends approval with the following conditions: that the final acceptance by the governing boards of the Jurupa Unified and San Bruno Elementary School Districts be made within 60 days of the meeting in which proposals are received, and that the reasons for the acceptance be discussed in public session and included in the minutes of the meeting.

### SUMMARY OF KEY ISSUES

Under provisions of EC sections 33050 through 33053, the districts are requesting that specific portions of the EC relating to the sale or lease of surplus property be waived.
The Jurupa Unified School District complied with the surplus property requirements set forth in the Education Code in an effort to sell the former Limonite K-8 School Site. Such efforts were unsuccessful, and thus, given current market conditions and the location of the property, the district desires to utilize more standard commercial real estate practices to dispose of the property, including the use of a broker to advertise and market the property for a negotiated sale, rather than sale at an auction. The district has also affirmed that their reference to there being attachments included with the waiver request were in error, and that there are in fact no attachments.

The San Bruno Park Elementary School District desires to have the requested Education Code sections waived because the waiver of these sections will allow the district to maximize its return on the sale or lease of the district's former Engvall School site, located at 2101 Sneath Lane, San Bruno, California. The district has determined that this site is no longer needed for school purposes. It is the desire of the district to attract potential buyers or long-term lessees who will not only pay maximum price for the property, but who will also enhance the surrounding neighborhood. Based on past sales and leases of real property in our area and the location of the property, the district anticipates attracting much greater interest from potential buyers or lessees through a Request for Proposal process than a bid process.

**Demographic Information:**
The Jurupa Unified School District has a student population of 19,194 and is located in a suburban area of Riverside County.

The San Bruno Park Elementary School District has a student population of 2,700 and is located in an urban area of San Mateo County.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a), available at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051.

**SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

The State Board of Education has approved all previous waivers regarding the bidding process and the sale or lease of surplus property. The districts are requesting to waive the same or similar provisions for the sale of surplus property.

The State Board of Education previously approved Waiver Number 5-7-2014-W-08 for Jurupa Unified School District on November 4, 2014, which expired on July 19, 2016.

**FISCAL ANALYSIS (AS APPROPRIATE)**

The flexibility in property disposition requested herein will allow the Jurupa Unified School District to maximize revenue from the sale of the property.

The flexibility in property disposition requested herein will allow the San Bruno Park Elementary School District to maximize revenue from the sale of the property.
ATTACHMENT(S)

Attachment 1: Summary Table (1 page)

Attachment 2: Jurupa Unified School District General Waiver Request 13-7-2017 (6 pages). (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: San Bruno Park Elementary School District General Waiver Request 1-7-2017 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)
<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>School District</th>
<th>Property</th>
<th>Period of Request</th>
<th>Local Board Approval Date</th>
<th>Public Hearing Date</th>
<th>Bargaining Unit, Representatives Consulted, Date, and Position</th>
<th>Advisory Committee Consulted</th>
</tr>
</thead>
</table>
| 13-7-2017     | Jurupa Unified  | 4850 Pedley Rd., Jurupa Valley CA 92509 | Requested: August 1, 2017 to July 31, 2019  
Recommended: August 1, 2017 to July 30, 2019 | July 17, 2017 | July 17, 2017  
Public Hearing Advertised: Publication in a local newspaper, specifically The Press Enterprise 7/7/2017 | California School Employees Association-Jurupa  
Diana Strona, President, CSEA Jurupa 392  
June 29, 2017  
Support  
National Education Association - Jurupa  
Paul Swan Vanlent, President-Elect, NEA-Jurupa  
June 29, 2017  
Support | District Facility Advisory Committee |
| 1-7-2017      | San Bruno Park Elementary | 500 Acacia Ave., San Bruno, CA 94066 | Requested: September 1, 2017 to August 31, 2019  
Recommended: September 1, 2017 to August 30, 2019 | June 28, 2017 | June 28, 2017  
Public Hearing Advertised: Newspaper, Posted at school sites and agendized per Brown Act | San Bruno Education Association  
Karen Byrne, President  
June 19, 2017  
Neutral | Budget Advisory Committee |
Ed Code or CCR to Waive: The Jurupa Unified School District (“District”) respectfully requests a waiver from further compliance with the following stricken provisions of the Education Code with respect to the proposed sale of the District’s surplus former Limonite K-8 School Site identified as Riverside County Assessor Parcel Nos. 165-120-007, 165-120-016, 165-130-019, 165-130-021, 165-130-028, and 165-130-029, located at or near 9061, 9081, and 9149 Limonite Avenue, Jurupa, California (“Property”):

Education Code § 17455

“The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district[, and shall be made in the manner provided by this article].”

The District respectfully requests this waiver renewal because it is seeking to avoid future public auctions so that it may enter into direct negotiations with a purchaser and sell the Property. This waiver renewal removes references to the public auction or the auction process.

Education Code § 17461(a)

“(a) The governing board of any school district that has, by majority vote, established a standard rate or rates for the lease pursuant to this article of its real property may, by majority vote, delegate to the officer or employee as the governing board may designate, the power to enter into any lease, for and on behalf of the district, of any real property of the school district, with respect to which real property [either the district has received only one sealed proposal that conforms with the existing standard rate or rates, from a responsible bidder, and no oral bid that would meet the requirements of Section 17473, or] the lease is to be entered into pursuant to
Section 17480."

The District respectfully requests this waiver renewal because it is seeking to avoid future public auctions so that it may enter into direct negotiations with a purchaser and sell the Property. This waiver renewal removes references to the public auction or the auction process.

*Education Code § 17466*

“Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it [and shall specify the minimum price or rental and the terms upon which it will be sold or leased] and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker [out of the minimum price or rental. The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered]."

The District respectfully requests this waiver renewal because it is seeking to avoid future public auctions so that it may enter into direct negotiations with a purchaser and sell the Property. This waiver renewal removes references to the public auction or the auction process.

*Education Code § 17468*

“If, in the discretion of the board, it is advisable to offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, the commission shall be specified in the resolution. No commission shall be paid unless there is contained in or with the [sealed] proposal [or stated in or with the oral bid], which is finally accepted, the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof. Any commission shall, however, be paid only out of money received by the board from the sale or rental of the real property.”

The District respectfully requests this waiver renewal because it is seeking to avoid future public auctions so that it may enter into direct negotiations with a purchaser and sell the Property. This waiver renewal removes references to the public auction or the auction process.

*Education Code § 17469*

“Notice of the adoption of the resolution [and of the time and place of holding the meeting] shall be given by posting copies of the resolution signed by the board or by a majority thereof in three public places in the district[, not less than 15 days before the date of the meeting, and by publishing the notice not less than once a week for three successive weeks before the meeting in a newspaper of general circulation published in the county in which the district or any part thereof is situated, if any such newspaper is published therein].”

The District respectfully requests this waiver renewal because it is seeking to avoid future public auctions so that it may enter into direct negotiations with a purchaser and sell the Property. This waiver renewal removes references to the public auction or the auction process.

*Education Code § 17470*
“(a) The governing board of a school district that intends to sell real property pursuant to this article shall take reasonable steps to ensure that the former owner from whom the district acquired the property receives notice of the public meeting prescribed by Section 17466, in writing, by certified mail, at least 60 days prior to the meeting.

“(b) The governing board of a school district shall not be required to accord the former owner the right to purchase the property at the tentatively accepted highest bid price nor to offer to sell the property to the former owner at the tentatively accepted highest bid price."

In its initial attempts to sell the Property, the District informed the former owner(s) of the Property under this section. However, the District respectfully requests that it not have to inform the former owners again. This waiver renewal also removes references to the public auction or the auction process.

*Education Code § 17472*

“[At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or to lease and which are made by responsible bidders, the proposal which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.]”

The District respectfully requests this waiver renewal because it is seeking to avoid future public auctions so that it may enter into direct negotiations with a purchaser and sell the Property. This waiver renewal removes references to the public auction or the auction process.

*Education Code § 17473*

“[Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted. Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by the offeror.]”

The District respectfully requests this waiver renewal because it is seeking to avoid future public auctions so that it may enter into direct negotiations with a purchaser and sell the Property. This waiver renewal removes references to the public auction or the auction process.

*Education Code § 17474*

“[In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 17468 of this code, the board shall allow a commission on the full amount for which the sale is confirmed. One-half of the commission on the amount of the
highest written proposal shall be paid to the broker who submitted it, and the balance of
the commission on the purchase price to the broker who procured the purchaser to whom the sale
was confirmed.]"

The District respectfully requests this waiver renewal because it is seeking to avoid future public
auctions so that it may enter into direct negotiations with a purchaser and sell the Property.
This waiver renewal removes references to the public auction or the auction process.

*Education Code § 17475*

“[The final acceptance by the governing body may be made either at the same session or at any
adjourned session of the same meeting held within the 10 days next following.]”

The District respectfully requests this waiver renewal because it is seeking to avoid future public
auctions so that it may enter into direct negotiations with a purchaser and sell the Property.
This waiver renewal removes references to the public auction or the auction process.

*Education Code § 17476*

“The governing body may at the session, if it deems such action to be for the best public
interest[, reject any and all bids, either written or oral, and] withdraw the property from sale or
lease.”

The District respectfully requests this waiver renewal because it is seeking to avoid future public
auctions so that it may enter into direct negotiations with a purchaser and sell the Property.
This waiver renewal removes references to the public auction or the auction process.

*Education Code § 17477*

“(a)
“(1) If the governing board has complied with the provisions of this article, and no proposals are
submitted or the proposals submitted do not conform with all terms and conditions specified in
the resolution of intent to lease, the governing board may within one year thereafter, or one year
after the passage of 30 days from the rejection of a public entity's nonconforming proposal, as
appropriate, lease such real property, together with any personal property located thereon, to
any lessee, at a price not less than fair market value in accordance with any terms and
conditions agreed upon by the governing board and the lessee, except that the term of a lease
shall not exceed three years. Sections 17461, 17464, and 17466 to 17469, inclusive, and
Sections 17471 to 17473, inclusive, shall not apply to the lease.
“(2) The governing board may by majority vote delegate an officer or employee of the district, or
any other third person, to secure a lessee and to negotiate the terms and conditions of the
lease. However, the lease shall not be executed unless the governing board by majority vote, at
a public meeting, approves the lease.
“(3) If a public entity has submitted a nonconforming proposal, the governing board shall not
take any action pursuant to this subdivision until 30 days after the rejection of the proposal.
“(b) Subdivision (a) shall not apply if a public entity has submitted a proposal that does not
conform with all the terms and conditions specified in the resolution of intent to lease, and if the
public entity requests, in writing, within 30 days from the rejection of its proposal, that the
governing board lease the real property, subject to the resolution of intent, in accordance with
this article.]”

The District respectfully requests this waiver renewal because it is seeking to avoid future public
auctions so that it may enter into direct negotiations with a purchaser and sell the Property. This waiver renewal removes references to the public auction or the auction process.

*Education Code* § 17478

“Any resolution of acceptance [of any bid] made by the governing body authorizes and directs the president of the governing body, or other presiding officer, or the members thereof, to execute a deed or lease and to deliver it upon performance and compliance by the purchaser or lessee of all the terms or conditions of his or her contract to be performed concurrently therewith.”

The District respectfully requests this waiver renewal because it is seeking to avoid future public auctions so that it may enter into direct negotiations with a purchaser and sell the Property. This waiver renewal removes references to the public auction or the auction process.

Outcome Rationale: The Jurupa Unified School District complied with the surplus property requirements set forth in the *Education Code* in an effort to sell the former Limonite K-8 School Site. Such efforts were unsuccessful, and thus, given current market conditions and the location of the property, the District desires to utilize more standard commercial real estate practices to dispose of the property—including the use of a broker to advertise and market the property for a negotiated sale, rather than sale at an auction. Please see attached documents, which are attached hereto and incorporated herein by this reference, for more detailed information.

Student Population: 19194

City Type: Suburban

Public Hearing Date: 7/17/2017
Public Hearing Advertised: Publication in a local newspaper, specifically The Press Enterprise 7/7/2017

Local Board Approval Date: 7/17/2017

Community Council Reviewed By: District Facility Advisory Committee
Community Council Reviewed Date: 6/29/2017
Community Council Objection: N
Community Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Paula Ford
Position: Assistant Superintendent, Business Services
E-mail: pford@jusd.k12.ca.us
Telephone: 951-360-4157
Fax: 951-360-4163

Bargaining Unit Date: 06/29/2017
Name: California School Employees Association-Jurupa
Representative: Diana Strona
Title: President, CSEA Jurupa 392
Position: Support
Comments:

Bargaining Unit Date: 06/29/2017
Name: National Education Association - Jurupa
Representative: Paul Swan Vanlent
Title: President-Elect, NEA-Jurupa
Position: Support
Comments:
California Department of Education
WAIVER SUBMISSION - General

CD Code: 4169013   Waiver Number: 1-7-2017   Active Year: 2017

Date In: 7/5/2017 4:09:34 PM

Local Education Agency: San Bruno Park Elementary School District
Address: 500 Acacia Ave.
San Bruno, CA 94066

Start: 9/1/2017   End: 8/31/2019

Waiver Renewal: N   Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: Sale or Lease of Surplus Property
Ed Code Title: Sale of Surplus Property
Ed Code Section: 17455, 17466, 17469, 17472, 17473, 17474, 17475
Ed Code Authority: 17388

Ed Code or CCR to Waive: The San Bruno Park School District desires to waive the following sections and portions of the Education Code lined out below:

17455. The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district, and shall be made in the manner provided by this article.

Rationale: The San Bruno Park School District requests the specified Education Code sections be waived in order to allow the District to maximize the return on the sale or lease of one of its sites in a manner that best serves our schools and community. The District would like to offer the property for sale or lease through Requests for Proposals followed by further negotiations using the services of a broker who will advertise and solicit proposals from potential buyers. The article referenced by Education Code Section 17455 consists of sections 17455 through 17484, which contain provisions regarding the sale or lease of real property that are inconsistent with the manner in which the District hopes to market the property.

The District will work closely with consultants to ensure that the process by which the property is sold or leased is fair, open, and competitive. The process the District will use will be designed to get the best result for the District, the schools, and the community.

17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds votes of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it and shall specify the minimum price or rental and the terms upon which it will be sold or leased and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker out of the minimum price or rental. The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.

Rationale: The language to be waived provides for a minimum price or rental and requires
sealed proposals to purchase or lease the property. This requirement restricts the District’s flexibility in negotiating price, payments, and other terms that may yield greater economic and other benefits to the District than a sealed bid process.

17469. Notice of the adoption of the resolution and of the time and place of holding the meeting shall be given by posting copies of the resolution signed by the board or by a majority thereof in three public places in the district, not less than 15 days before the date of the meeting, and by publishing the notice not less than once a week for three successive weeks before the meeting in a newspaper of general circulation published in the county in which the district or any part thereof is situated, if any such newspaper is published therein.

Rationale: Since the District is requesting to waive the requirement that the resolution adopted pursuant to *Education Code* section 17466 fix a time not less than three weeks thereafter for a public meeting at which sealed proposals will be received and considered, it also seeks to waive the corresponding provisions in section 17469.

17472. At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or to lease and which are made by responsible bidders, the proposal which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.

Rationale: With a waiver of the requirement that sealed proposals be received, and that the highest bidder be awarded the contract, the District will be able to sell or lease the property to the party that presents the most favorable proposal to the District. The Board would, therefore, be able to sell or lease to the party submitting the proposal that best meets the District’s needs. By removing the requirement that an oral bid be accepted, the District would be able to determine what constitutes the most desirable bid.

17473. Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted. Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by the offeror.

Rationale: The District asks that this entire section be waived because the District, in negotiating an agreement to sell or lease the property, will not be accepting oral bids in addition to sealed bids.

17474. In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 17468 of this code, the board shall allow a commission on the full amount for which the sale is confirmed. One-half of the commission on the amount of the highest written proposal shall be paid to the broker who submitted it, and the balance of the commission on the purchase price to the broker who procured the purchaser to whom the sale was confirmed.

Rationale: The District asks that this entire section be waived because the District, in negotiating an agreement to sell or lease the property, will not be accepting oral bids.

17475. The final acceptance by the governing body may be made either at the same session or at any adjourned session of the same meeting held within the 10 days next following.
Rationale: Rather than specifying a certain number of days or a timeframe, the District seeks flexibility in disposing of the property disposal process. The District will ensure a public process whereby the reasons for the determination of the most desirable proposal is shared openly. Prior to the decision to sell or lease a site, a Property Advisory Committee, whose purpose is to advise the District's Governing Board in the development of District-wide policies and procedures governing the use or disposition of school buildings, space, or property which is not used for school purposes, establishes a priority list of use of surplus space and real property, provides for hearings of community input on acceptable uses of space and real property, and makes a recommendation to the Board regarding the uses of surplus space and real property. (See, Ed. Code, § 17388.)

Outcome Rationale: Desired Outcome/Rationale
The San Bruno Park School District desires to have the requested Education Code sections, or portions thereof, waived because the waiver of these sections will allow the District to maximize its return on the sale or lease of the District's former Engvall School site, located at 2101 Sneath Lane, San Bruno, California. The District has determined that this site is no longer needed for school purposes. It is the desire of the District to attract potential buyers or long-term lessees who will not only pay maximum price for the property, but who will also enhance the surrounding neighborhood. Based on past sales and leases of real property in our area and the location of the property, the District anticipates attracting a much greater interest from potential buyers or lessees through a Request for Proposal process than a bid process.

Student Population: 2700

City Type: Urban

Public Hearing Date: 6/28/2017
Public Hearing Advertised: Newspaper, Posted at school sites and agendized per Brown Act

Local Board Approval Date: 6/28/2017

Community Council Reviewed By: Budget Advisory Committee
Community Council Reviewed Date: 6/15/2017
Community Council Objection: Y
Community Council Objection Explanation: One member concerned paperwork not completed and wanted to know where money was budgeted.

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Jennifer Peponis
Position: Admin. Assistant to Superintendent
E-mail: jpeponis@sbpsd.k12.ca.us
Telephone: 650-624-3110
Fax: 650-266-9626

Bargaining Unit Date: 06/19/2017
Name: San Bruno Education Association
Representative: Karen Byrne
Title: President
Position: Neutral
Comments:
General Waiver

SUBJECT
Request by Rosemead Elementary School District to waive California Education Code sections 15102 and 15268 to allow the district to exceed its bonded indebtedness limit. Total bonded indebtedness may not exceed 1.25 percent of the taxable assessed valuation of property for high school and elementary school districts. Depending on the type of bond, a tax rate levy limit to $30 per $100,000 of assessed value for high school and elementary school districts may also apply.

Waiver Number: 5-7-2017

SUMMARY OF THE ISSUES
The Rosemead Elementary School District’s bonded indebtedness is statutorily limited not to exceed 1.25 percent, which prohibits them from issuing the entirety of $8 million in bonds authorized in November 2014 and $2 million in bonds authorized in November 2008. The district’s original request was to increase the limit to 2.00 percent, however that figure could not be substantiated by staff. This resulted in the current amended request of 1.75 percent.

Authority for Waiver: California Education Code (EC) Section 33050

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends that the bonded indebtedness limit be waived with the following conditions: (1) the period of request does not exceed the recommended period on Attachment 1, (2) the total bonded indebtedness does not exceed the recommended new maximum shown on Attachment 1, (3) the district does not exceed the statutory tax rate, (4) the waiver is limited to the sale of bonds approved by the voters on the measure noted on Attachment 1, and (5) the district complies with the statutory requirements of Assembly Bill (AB) 182 related to school bonds which became effective January 1, 2014.

SUMMARY OF KEY ISSUES
The California Education Code (EC) provides limits related to a district’s total bonded indebtedness. EC sections 15106 and 15270(a) limit an elementary school district’s
total general obligation (G.O.) bond indebtedness to 1.25 percent.

To raise funds to build or renovate school facilities, with voter authorization, school districts may issue G.O. bonds. Prior to 2001, districts needed a two-thirds voter approval. In November 2000, districts were given another option for authorizing and issuing bonds when California voters passed Proposition 39, which allows school bonds to be approved with a 55 percent majority vote if the district abides by several administrative requirements, such as establishing an independent Citizens’ Oversight Committee to oversee the use of the funds. Once G.O. bonds are authorized, school districts issue the bonds in increments as needed to fund their facility projects. When the voters authorize a local G.O. bond, they are simultaneously authorizing a property tax increase to pay the principal and interest on the bond. For Proposition 39 bonds, EC Section 15268 limits the tax rate levy authorized in each election to $30 per $100,000 of taxable property for high school and elementary school districts.

Without a waiver, school districts that are close to their bonding capacity must decide either to issue fewer bonds, delay the issuance of bonds until their assessed valuation increases, or obtain other more expensive non-bond financing to complete their projects, the costs of which could be paid from district general funds. Therefore, the CDE has historically recommended that the State Board of Education (SBE) approve related waiver requests with the condition that the statutory tax levies are not exceeded at the time the bonds are issued.

On October 2, 2013, Governor Brown signed AB 182 (Chapter 477, Statutes of 2013) which established parameters for the issuance of local education bonds that allow for the compounding of interest, including capital appreciation bonds (CABs). AB 182 requires a district governing board to do the following:

- Before the bond sale, adopt a resolution at a public meeting that includes specific criteria, including being publicly noticed on at least two consecutive meeting agendas.

- Be presented with an agenda item at a public board meeting that provides a financial analysis of the overall costs of the bonds, a comparison to current interest bonds, and reasons why the compounding interest bonds are being recommended.

- After the bond sale, present actual cost information at the next scheduled public meeting and submit the cost information of the sale to the California Debt and Investment Advisory Commission.

**DISTRICT REQUESTS**

Rosemead Elementary School District originally requested that its outstanding bonded indebtedness limit be increased to an amount not to exceed 2.00 percent through October 1, 2023. The district intends to issue $8 million of general obligation bonds approved by voters in November 2014 and $2 million in bonds authorized in November 2008. However, the district’s request of 2.00 percent could not be substantiated with the cumulative issuance of $10 million. It has been determined that 1.75 percent is the
maximum limit that can be substantiated at the requested issuance amount. Therefore, the district is amending their request to increase the limit to 1.75 percent through October 1, 2023 (Attachment 3).

**Demographic Information:** Rosemead Elementary School District has a student population of 2,511 and is located in Los Angeles County.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a), available at** [http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051).

**SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

The SBE has approved all bond limit waiver requests limited to the sale of already authorized bonds and at the tax rate levy stated on the bond measure.

**FISCAL ANALYSIS (AS APPROPRIATE)**

Approval of the waiver would allow the district to accelerate the issuance of voter approved bonds.

**ATTACHMENT(S)**

Attachment 1: Summary Table (1 page)

Attachment 2: Rosemead Elementary School District General Waiver Request 5-7-2017 (6 pages). (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Rosemead Elementary School District General Waiver Request 5-7-2017 (4 pages). (Amended waiver request is on file in the Waiver Office.)
## Summary Table

### District(s) Requesting Increase in Bond Indebtedness Limits

California *Education Code* (EC) sections 15102 and 15268 prohibit elementary and high school districts from issuing bonds in excess of 1.25 percent of the assessed valuation of a district's taxable property. 

EC sections 15106 and 15270(a) prohibit unified school districts from issuing bonds in excess of 2.5 percent of the assessed valuation of a district's taxable property. EC sections 15268 and 15270(a) limit bonds authorized by a 55 percent majority in elementary and high school districts to $30 per $100,000 of taxable property per election and unified school districts to $60 per $100,000.

<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>District</th>
<th>Period of Request</th>
<th>Total Bonded Indebtedness Limit and Tax Rate per $100,000 Assessed Valuation Allowed by Law or Noted on Voter Pamphlet</th>
<th>District's Request</th>
<th>CDE Recommended (New Maximum)</th>
<th>Bargaining Unit, Representatives Consulted, Date/Position</th>
<th>Public Hearing and Local Board Approval Date</th>
<th>Advisory Committee Consulted, Date/Position</th>
<th>District States it has Complied with Assembly Bill 182 Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>5-7-2017</td>
<td>Rosemead Elementary School District</td>
<td>Requested: October 1, 2017 to October 1, 2023, Recommended: October 1, 2017 to October 1, 2022</td>
<td>Debt Limit 1.25% Tax Rate $30</td>
<td>Original Request: Debt Limit 2.00% Tax Rate $30</td>
<td>Amended Request: Debt Limit 1.75% Tax Rate $30</td>
<td>Rosemead California Schools Employees Association Octavio Serrato, Chapter IX President June 27, 2017 Neutral</td>
<td>Rosemead Teachers Association Jerry Puente, President June 27, 2017 Neutral</td>
<td>Initial Public Hearing May 18, 2017 Local Board Approval May 18, 2017 Reaffirmation after the Citizens Oversight Committee October 5, 2017 Notice in newspaper, notice posted at each school site and District’s website.</td>
<td>District Citizens Oversight Committee September 8, 2017 No objections</td>
</tr>
</tbody>
</table>
California Department of Education
WAIVER SUBMISSION - General

CD Code: 1964931 Waiver Number: 5-7-2017 Active
Year: 2017

Date In: 7/7/2017 9:13:48 AM

Local Education Agency: Rosemead Elementary School District
Address: 3907 Rosemead Blvd.
Rosemead, CA 91770

Start: 10/1/2017 End: 10/1/2023

Waiver Renewal: N Previous Waiver Number: Previous SBE Approval Date:

Waiver Topic: School Construction Bonds
Ed Code Title: Bond Indebtedness Limit - Non-Unified
Ed Code Section: [15268], [15102]
Ed Code Authority: 33050

Ed Code or CCR to Waive: See Attachment

Outcome Rationale: See Attachment

Student Population: 2511

City Type: Urban

Public Hearing Date: 5/18/2017
Public Hearing Advertised: Notice in newspaper, notice posted at each school site and District's website

Local Board Approval Date: 5/18/2017

Community Council Reviewed By: District Facilities Committee
Community Council Reviewed Date: 5/18/2017
Community Council Objection: N
Community Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Amy Enomoto-Perez
Position: Superintendent
E-mail: aeperez@rosemead.k12.ca.us Telephone: 626-312-2900
Fax:
Bargaining Unit Date: 06/27/2017
Name: Rosemead California Schools Employees Association
Representative: Octavio Serrato
Title: Chapter IX President
Position: Neutral
Comments:

Bargaining Unit Date: 06/27/2017
Name: Rosemead Teachers Association
Representative: Jerry Puente
Title: President
Position: Neutral
Comments:
Education Code sections to be waived

**Section 15102.** [The total amount of bonds issued pursuant to this chapter and Chapter 1.5 (commencing with Section 15264) shall not exceed 1.25 percent of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.]

For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987-88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987-88 fiscal year, and multiplying that result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

**Section 15268.** [The total amount of bonds issued, including bonds issued pursuant to Chapter 1 (commencing with Section 15100), shall not exceed 1.25 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located.] The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred by a school district pursuant to this chapter, at a single election, would not exceed thirty dollars ($30) per year per one hundred thousand dollars ($100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with
Article XIII A of the California Constitution.

Circumstances behind the Request and Why the Waiver is Necessary

Rosemead School District is requesting this waiver to apply to the general obligation bond authorizations previously approved by voters via a bond measure in 2008 (designated as Measure “O”) and in 2014 (designated as Measure (“RS”). The vote was conducted in Los Angeles County to conform with the District’s boundaries.

On July 24, 2008, the Board of Trustees (“Board”) of the Rosemead School District (“District”) adopted Resolution No. 08-09/07, which called a general obligation bond election within the District for November 4, 2008, pursuant to the provisions of the California Constitution and related California law. On November 4, 2008, the voters within the District voted to approve the bond measure (designated as Measure “O”) to authorize the District to issue general obligation bonds to finance certain specified capital projects and facilities by more than the required 55% vote (under Proposition 39). The vote was conducted in Los Angeles County to conform with the District’s boundaries. At that election the qualified electors of the District approved the issuance and sale of general obligation bonds of the District for various purposes, as set forth in the ballot measure submitted to the voters, in the maximum amount of $30,000,000, payable from the levy of ad valorem taxes against the taxable property in the District.

Proceeds of the 2008 Series A Bonds, 2011 BANs, Series B Bonds, and Series T-1 Bonds were used for various District capital facilities projects and technology improvements.

On July 17, 2014, the Board adopted Resolution No. 14-15/03, which called a general obligation bond election within the District for November 4, 2014, pursuant to the provisions of the California Constitution and related California law. On November 4, 2014, the voters within the District voted to approve the bond measure (designated as Measure “RS”) to authorize the District to issue general obligation bonds to finance certain capital projects and facilities by more than the required 55% vote (under Proposition 39). The vote was conducted in Los Angeles County to confirm with the District’s boundaries. At that election the qualified electors of the District approved the issuance and sale of general obligation bonds of the District for various purposes, as set forth in the ballot measure submitted to the voters, in the maximum amount of $30,000,000, payable from the levy of ad valorem taxes against the taxable property in the District.

**No Measure RS general obligation bonds have been issued thus far.**

Based upon the current facilities plans of the District, and subject to the limitations of State law, the Board is expected to adopt a resolution authorizing authorize the issuance and sale of not to exceed $8,000,000 of the Rosemead School District General Obligation Bonds, 2014 Election, Series A and T-1 (“Series 2017 Bonds”), and the issuance and sale of not-to-exceed $2,000,000 of the Rosemead School District General Obligation Bonds, 2008 Election, Series C (“Series C Bonds”).

To allow the District to issue additional general obligation bonds over and above the current applicable statutory bonding capacity limit of 1.25% of assessed valuation within the District, the
District is pursuing this waiver of statutory limits from the State Board of Education. The District is requesting that the bonded indebtedness limit be increased by 0.75%, raising the limit to 2.00% of the assessed valuation within the District. The District requests that the proposed waiver extend to all the authorized and unissued bonds under Measure O and Measure RS. The District will use the additional funds for capital projects, infrastructure, and technology upgrades. Improved school facilities, classrooms, and updated technology resources are expected to assist the District to meet its goal of improved student performance.
Education Code sections to be waived

Section 15102. [The total amount of bonds issued pursuant to this chapter and Chapter 1.5 (commencing with Section 15264) shall not exceed 1.25 percent of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.]

For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987-88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987-88 fiscal year, and multiplying that result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

Section 15268. [The total amount of bonds issued, including bonds issued pursuant to Chapter 1 (commencing with Section 15100), shall not exceed 1.25 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located.] The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred by a school district pursuant to this chapter, at a single election, would not exceed thirty dollars ($30) per year per one hundred thousand dollars ($100,000) of taxable property when assessed
valuation is projected by the district to increase in accordance with Article XIII A of the California Constitution.

Circumstances behind the Request and Why the Waiver is Necessary

Rosemead School District is requesting this waiver to apply to the general obligation bond authorizations previously approved by voters via a bond measure in 2008 (designated as Measure “O”) and in 2014 (designated as Measure (“RS”). The vote was conducted in Los Angeles County to conform with the District’s boundaries.

On July 24, 2008, the Board of Trustees (“Board”) of the Rosemead School District (“District”) adopted Resolution No. 08-09/07, which called a general obligation bond election within the District for November 4, 2008, pursuant to the provisions of the California Constitution and related California law. On November 4, 2008, the voters within the District voted to approve the bond measure (designated as Measure “O”) to authorize the District to issue general obligation bonds to finance certain specified capital projects and facilities by more than the required 55% vote (under Proposition 39). The vote was conducted in Los Angeles County to conform with the District’s boundaries. At that election the qualified electors of the District approved the issuance and sale of general obligation bonds of the District for various purposes, as set forth in the ballot measure submitted to the voters, in the maximum amount of $30,000,000, payable from the levy of ad valorem taxes against the taxable property in the District.

B ("Series B Bonds") and General Obligation Bonds, Election 2008, Series T-1 ("Series T-1 Bonds"), in the initial par amounts of $7,566,503.15 and $760,000, respectively, in 2013. Proceeds of the 2008 Series A Bonds, 2011 BANs, Series B Bonds, and Series T-1 Bonds were used for various District capital facilities projects and technology improvements.

On July 17, 2014, the Board adopted Resolution No. 14-15/03, which called a general obligation bond election within the District for November 4, 2014, pursuant to the provisions of the California Constitution and related California law. On November 4, 2014, the voters within the District voted to approve the bond measure (designated as Measure “RS”) to authorize the District to issue general obligation bonds to finance certain capital projects and facilities by more than the required 55% vote (under Proposition 39). The vote was conducted in Los Angeles County to confirm with the District’s boundaries. At that election the qualified electors of the District approved the issuance and sale of general obligation bonds of the District for various purposes, as set forth in the ballot measure submitted to the voters, in the maximum amount of $30,000,000, payable from the levy of ad valorem taxes against the taxable property in the District. **No Measure RS general obligation bonds have been issued thus far.**

Based upon the current facilities plans of the District, and subject to the limitations of State law, the Board is expected to adopt a resolution authorizing the issuance and sale of not to exceed $8,000,000 of the Rosemead School District General Obligation Bonds, 2014 Election, Series A and T-1 ("Series 2017 Bonds"), and the issuance and sale of not-to-exceed $2,000,000 of the Rosemead School District General Obligation Bonds, 2008 Election, Series C ("Series C Bonds").
To allow the District to issue additional general obligation bonds over and above the current applicable statutory bonding capacity limit of 1.25% of assessed valuation within the District, the District is pursuing this waiver of statutory limits from the State Board of Education. The District is requesting that the bonded indebtedness limit be increased by 0.50%, raising the limit to 1.75% of the assessed valuation within the District until the year 2022. The District requests that the proposed waiver extend to all the authorized and unissued bonds under Measure O and Measure RS. The District will use the additional funds for capital projects, infrastructure, and technology upgrades. Improved school facilities, classrooms, and updated technology resources are expected to assist the District to meet its goal of improved student performance.
General Waiver

**SUBJECT**
Request by Oak Run Elementary School District to waive portions of California Education Code Section 5091, which will allow the board of trustees to make a provisional appointment to a vacant board position past the 60-day statutory deadline.

Waiver Number: 4-8-2017

**SUMMARY OF THE ISSUES**

California Education Code (EC) Section 5091 requires a governing board to make a provisional appointment or order an election to fill a vacancy on the board within 60 days of the vacancy. EC Section 5091 further requires the county superintendent of schools (county superintendent) to order an election to fill the vacancy if the board does not take action within the 60 days. Approval of this waiver request removes the 60-day limit and provides the Oak Run Elementary School District (ESD) additional time to make an appointment.

**Authority for Waiver:** EC Section 33050

**RECOMMENDATION**

- Approval
- Denial
- Approval with conditions

The California Department of Education (CDE) recommends that the California State Board of Education (SBE) approve the request by the Oak Run ESD to waive the portions of EC Section 5091 (as indicated in Attachment 3), which require a governing board to take action to fill a vacancy on the board within 60 days.

**SUMMARY OF KEY ISSUES**

EC Section 5091 provides that a school district governing board make a provisional appointment or order an election to fill a vacancy on the board within 60 days of a vacancy. EC Section 5091 further provides that, if the governing board fails to take such action, the county superintendent must order an election to fill the vacancy. Approval of this waiver request would remove the 60-day limit, allowing the Oak Run ESD additional time to make a provisional appointment.
A member of the Oak Run ESD governing board missed three consecutive board meetings from July 2016 to October 2016. District staff actively recruited for this vacancy but no applications from potential candidates were obtained within the required 60-day period. The Shasta County Superintendent (with current responsibility for calling the election for the board vacancy) supports the district’s waiver request.

Given the above circumstances, the lack of local opposition to the waiver request, and the CDE’s determination that none of the reasons for denial in EC Section 33051(a) exist, the CDE recommends that the SBE approve the request by the Oak Run ESD to waive portions of EC Section 5091 (as indicated in Attachment 3), which require a governing board to take action to fill a vacancy on the board within 60 days.

Demographic Information:

The Oak Run ESD has a student population of 70 and is located in a rural area of Shasta County.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a), available at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE has approved similar waiver requests. The most recent approval was at the July 2017 SBE meeting for the Indian Springs ESD (Shasta County). Moreover, the SBE approved an identical request for the Oak Run ESD at its May 2012 meeting.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of the waiver request will not have fiscal effects on any local or state agency. Disapproval of the request may result in election costs for the Oak Run ESD.

ATTACHMENT(S)

Attachment 1: Summary Table (1 page)

Attachment 2: Oak Run Elementary School District General Waiver Request 4-8-2017 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Portions of California Education Code Section 5091 Recommended for Waiver (1 page)

1 Pursuant to subdivision (g) of Government Code Section 1770, a vacancy on the board occurs when a board member ceases to discharge the duties of his or her office for three consecutive months.

2 Subsequent to submittal of this waiver request, the board found a qualified candidate for appointment.
<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>District</th>
<th>Period of Request</th>
<th>Bargaining Unit, Representatives Consulted, Date, and Position*</th>
<th>Public Hearing and Board Approval Date</th>
<th>Public Hearing Advertisement</th>
<th>SSC/Advisory Committee Position</th>
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<tbody>
<tr>
<td>4-8-2017</td>
<td>Oak Run Elementary School District</td>
<td>Requested: December 14, 2016 to December 2, 2018</td>
<td>Cristan Norman Teacher 12/12/2016 Support</td>
<td>Public Hearing 12/14/2016</td>
<td>Notice posted at the Oak Run Elementary School District Office, on the district Web site, and at the local post office.</td>
<td>School Site Council, 2/14/2017 No objections</td>
</tr>
</tbody>
</table>

* The Oak Run ESD has no certificated or classified bargaining units—however, a representative teacher was consulted during development of the waiver request.
California Department of Education
WAIVER SUBMISSION - General

CD Code: 4570086  Waiver Number: 4-8-2017  Active Year: 2017

Date In: 8/8/2017 4:45:04 PM

Local Education Agency: Oak Run Elementary School District
Address: 27635 Oak Run to Fern Rd.
Oak Run, CA 96069

Start: 12/14/2016  End: 12/2/2018

Waiver Renewal: N
Previous Waiver Number:      Previous SBE Approval Date:

Waiver Topic: School District Reorganization
Ed Code Title: 60 day Requirement to Fill Board Vacancy
Ed Code Section: 5091-92
Ed Code Authority: 33050

Ed Code or CCR to Waive: California Education Code (EC) Section 5091 requires a governing board to make a provisional appointment or order an election to fill a vacancy within 60 days of the vacancy. EC section 5091 further requires the county superintendent of schools (county superintendent) to order an election to fill the vacancy if the board does not take action within the 60 days. Approval of this waiver request removes the 60-day limit and gives Oak Run Elementary School District (ORESD) additional time to make an appointment.

Outcome Rationale: A member of the Oak Run Elementary School District governing board missed three consecutive board meetings from July 2016 to October 2016. Although district staff actively recruited for the vacancy on its board, no candidate applications were obtained within the required 60-day period.

Student Population: 70

City Type: Rural

Public Hearing Date: 12/14/2016
Public Hearing Advertised: Posted at Oak Run Elementary School District Office, website, and the local post office.

Local Board Approval Date: 2/15/2017

Community Council Reviewed By: School Site Council
Community Council Reviewed Date: 2/14/2017
Community Council Objection: N
Community Council Objection Explanation:
Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Susanne Cooper
Position: Superintendent/Principal
E-mail: scooper@oakrunschoool.org
Telephone: 530-472-3241
Fax: 530-472-1087

Bargaining Unit Date: 12/12/2016
Name: Cristan Norman
Representative: Cristan Norman
Title: Teacher
Position: Support
Portions of California Education Code Section 5091 Recommended for Waiver

5091. (a) (1) Whenever a vacancy occurs, or whenever a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board shall[, within 60 days of the vacancy or the filing of the deferred resignation,] either order an election or make a provisional appointment to fill the vacancy. A governing board member may not defer the effective date of his or her resignation for more than 60 days after he or she files the resignation with the county superintendent of schools.

(2) In the event that a governing board fails to make a provisional appointment or order an election[ within the prescribed 60-day period] as required by this section, the county superintendent of schools shall order an election to fill the vacancy.

(b) When an election is ordered, it shall be held on the next established election date provided pursuant to Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code not less than 130 days after the order of the election.

(c) (1) If a provisional appointment is made[ within the 60-day period], the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the number of registered voters of the district equal to 11/2 percent of the number of registered voters of the district at the time of the last regular election for governing board members, or 25 registered voters, whichever is greater. However, in districts with less than 2,000 registered voters, a petition shall be deemed to bear a sufficient number of signatures if signed by at least 5 percent of the number of registered voters of the district at the time of the last regular election for governing board members.

Portions recommended for waiver are bracketed.
General Waiver

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

Waiver Numbers: Antelope Valley Union High School District 12-7-2017
Ontario-Montclair Unified School District 11-8-2017
Tustin Unified School District 9-7-2017

**SUMMARY OF THE ISSUES**

School districts that elect board members at-large face existing or potential litigation under the California Voting Rights Act of 2001 (CVRA). Pursuant to the California Education Code (EC), a district can change from at-large elections to by-trustee-area elections only if the change is approved by both the County Committee on School District Organization (County Committee) and voters at a districtwide election.

To reduce the potential for litigation and to establish by-trustee-area elections as expeditiously as possible, the Antelope Valley Union High School District (UHSD), the Ontario-Montclair Unified School District (USD), and the Tustin USD request that the California State Board of Education (SBE) waive the requirement that by-trustee-area election methods be approved at a districtwide election—allowing by-trustee-area elections to be adopted upon review and approval of the County Committee.

**Authority for Waiver:** EC Section 33050

**RECOMMENDATION**

Approval

1 Attachment 5 contains the Education Code language to be waived if the waiver requests are approved.
SUMMARY OF KEY ISSUES

Approval of the waiver requests would eliminate the election requirement for approval of trustee areas and a by-trustee-area method of election for future governing board elections in the Antelope Valley UHSD, the Ontario-Montclair USD, and the Tustin USD. The voters in the districts will continue to elect all board members—however, if the waiver requests are approved, all board members will be elected by trustee areas beginning with the next governing board elections.

County Committees have the authority to approve or disapprove the adoption of trustee areas and methods of election for school district governing board elections. Pursuant to EC Section 5020, County Committee approval of trustee areas and election methods constitutes an order of election; thus, voters in the districts have final approval.

Many districts in California are facing existing or potential litigation under the CVRA because of their at-large election methods. To help avoid potential litigation, the Antelope Valley UHSD, the Ontario-Montclair USD, and the Tustin USD are taking actions to establish trustee areas and adopt by-trustee-area election methods. In order to establish the trustee areas and the methods of election as expeditiously as possible, the districts are requesting that the SBE waive the requirement that the trustee areas and the election methods be approved at districtwide elections. If the SBE approves the waiver requests, by-trustee-area election methods can be adopted in the districts upon review and approval of the appropriate County Committee without subsequent local elections to approve the changes.

Only the elections to establish trustee areas and the election methods will be eliminated by approval of the waiver requests—voters in the school districts will continue to elect all governing board members. Moreover, approval of the waivers will not eliminate any existing legal rights of currently seated board members.

The waiver requests have been reviewed by the CDE and it has been determined that there was no significant public opposition to the waivers at the public hearings held by the governing boards of the districts. The CDE has further determined that none of the grounds specified in EC Section 33051, which authorize denial of a waiver, exist. The CDE recommends the SBE approve the requests by the Antelope Valley UHSD, the Ontario-Montclair USD, and the Tustin USD to waive EC Section 5020, and portions of sections 5019, 5021, and 5030, which require a districtwide election to approve a by-trustee-area method of election.

Demographic Information:

The Antelope Valley UHSD has a student population of 22,312 and is located in an urban area of Los Angeles County.

Ontario-Montclair USD has a student population of 21,000 and is located in a suburban area of San Bernardino County.

The Tustin USD has a student population of 24,000 and is located in an urban area of Orange County.
Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a), available at [http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051).

**SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

The SBE has approved 135 similar waivers—most recently for the Cypress Elementary School District (Orange County) at the September 2017 SBE meeting.

**FISCAL ANALYSIS (AS APPROPRIATE)**

Approval of the waiver requests will not have negative fiscal effects on any local or state agency. Failure to approve the requests will result in additional costs to the Antelope Valley UHSD, the Ontario-Montclair USD, and the Tustin USD for districtwide elections.

**ATTACHMENT(S)**

Attachment 1: Summary Table (2 pages)

Attachment 2: Antelope Valley Union High School District General Waiver Request 12-7-2017 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Ontario-Montclair Unified School District General Waiver Request 11-8-2017 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

Attachment 4: Tustin Unified School District General Waiver Request 9-7-2017 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

Attachment 5: California *Education Code* Proposed for Waiver (4 pages)
<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>District</th>
<th>Period of Request</th>
<th>Bargaining Unit, Representatives Consulted, Date, and Position</th>
<th>Public Hearing and Board Approval Date</th>
<th>Public Hearing Advertisement</th>
<th>SSC/Advisory Committee Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>12-7-2017</td>
<td>Antelope Valley Union High School District</td>
<td>Requested: May 26, 2017 to May 26, 2018</td>
<td>Antelope Valley Teachers Association, Dan Shy President 5/5/2017 Support</td>
<td>5/26/2017</td>
<td>The public hearing notice was posted at the district office, at all school sites, on the Internet, and in a newspaper.</td>
<td>Parent-Teacher Associations/Parent Advisory Councils/School Site Councils at all school sites between 5/11/2017 and 5/31/2017. One school site council (Littlerock High School) objected on grounds that it did not support the transition to trustee areas.</td>
</tr>
<tr>
<td>11-8-2017</td>
<td>Ontario-Montclair Unified School District</td>
<td>Requested: January 1, 2017 to December 31, 2018</td>
<td>Ontario-Montclair Teachers Association, MaryKay Schied President 8/9/2017 Support</td>
<td>8/17/2017</td>
<td>The public hearing notice was posted at all school sites, at three public places within the district, on the district Web site, and in a newspaper.</td>
<td>English Learner Advisory Committees, District English Learner Advisory Committee, and District English Learner Parent Advisory Committee (4/11/2017 and 4/12/2017); 32 School Site Councils (4/11/2017 through 8/16/2017). No objections</td>
</tr>
</tbody>
</table>
### Summary Table (continued)

<table>
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<tr>
<th>Waiver Number</th>
<th>District</th>
<th>Period of Request</th>
<th>Bargaining Unit, Representatives Consulted, Date, and Position</th>
<th>Public Hearing and Board Approval Date</th>
<th>Public Hearing Advertisement</th>
<th>SSC/Advisory Committee Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>9-7-2017</td>
<td>Tustin Unified School District</td>
<td>Requested: June 26, 2017 to June 26, 2018</td>
<td>Tustin Educators Association, Roger Kavigan, President 6/5/2017 Support</td>
<td>6/26/2017</td>
<td>The public hearing notice was posted at the district office, at all school sites, on the Internet, and in a newspaper.</td>
<td>Superintendent's Advisory Councils for parents, students, and teachers, 6/5/2017. No objections</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Recommended: June 26, 2017 to June 24, 2019</td>
<td>California School Employees Association, Luis Guerrero, President 5/30/2017 Support</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Classified School Management Association, Kyle Poe, President 5/16/2017 Support</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Outcome Rationale: This waiver is requested to expedite the efforts of the Antelope Valley Union High School District ("District") to ensure compliance with the California Voting Rights Act (Elections Code section 14025 et seq.) ("CVRA"). By granting this waiver, the District will be able to implement its new “by-trustee area” election system for its November 2018 elections to reduce any potential liability under the CVRA. Due to the fact that the CVRA grants a prevailing plaintiff the right to reasonable attorneys’ and expert witness fees, the District seeks to reduce the risk of costly litigation under the CVRA. By reducing the risk of such costly litigation in an expeditious and cost-efficient manner, the District will be able to ensure that cuts to necessary and valuable District student programs are not needed because of claims being brought under the CVRA.

Student Population: 22312

City Type: Urban

Public Hearing Date: 5/26/2017
Public Hearing Advertised: Newspaper, internet, school sites, and District office

Local Board Approval Date: 5/26/2017

Community Council Reviewed By: Please see Attachment B for groups/dates, attached hereto and incorporated herein by this reference.
Community Council Reviewed Date: 5/31/2017
Community Council Objection: Y
Community Council Objection Explanation: One Site Council (Littlerock HS) objected on
grounds that it did not support the overall transition.

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. David Vierra  
Position: Superintendent  
E-mail: DVierra@avhsd.org  
Telephone: 661-948-7655  
Fax:

Bargaining Unit Date: 05/05/2017  
Name: Antelope Valley Teachers Association  
Representative: Dan Shy  
Title: President  
Position: Support  
Comments:

Bargaining Unit Date: 05/08/2017  
Name: CSEA Chapter #612  
Representative: Scott Fish  
Title: President  
Position: Neutral  
Comments:
Outcome Rationale: The Ontario-Montclair School District desires to have the requested Education Code sections waived because the waiver of these sections will allow the District to successfully adopt trustee areas and establish a by-trustee election process as expeditiously as possible, thereby enabling the District to avoid litigation resulting out of its current at-large election process for electing its governing board members.

It is imperative that the District adopt these areas and establish this process without delay and without interference in order to expeditiously comply California Voting Rights Act of 2001 (“CVRA”). The District currently utilizes an at-large election process to elect its governing board members. The District’s failure to successfully adopt and implement trustee areas and a by-trustee area election process leaves it vulnerable to litigation in which the District would be exposed to potentially having to pay significant attorneys’ fees to plaintiffs, which would pose an undue hardship and extreme detriment to the District and its students.

Student Population: 21000

City Type: Suburban

Public Hearing Date: 8/17/2017
Public Hearing Advertised: Newspaper, Paper posting at all school sites, three public places within District, and on District web site.

Local Board Approval Date: 8/17/2017

Community Council Reviewed By: School Site Councils, English Learner Advisory Councils,
District Advisory Council  
Community Council Reviewed Date: 4/12/2017  
Community Council Objection: N  
Community Council Objection Explanation:  

Audit Penalty YN: N  
Categorical Program Monitoring: N  

Submitted by: Mr. Phil Hillman  
Position: Chief Business Official  
E-mail: phil.hillman@omsd.net  
Telephone: 909-418-6450  
Fax:  

Bargaining Unit Date: 08/09/2017  
Name: CSEA  
Representative: Ida Allen  
Title: President  
Position: Support  
Comments:  

Bargaining Unit Date: 08/09/2017  
Name: OMTA  
Representative: MaryKay Schied  
Title: President  
Position: Support  
Comments:
Outcome Rationale: This waiver is requested to expedite the efforts of the Tustin Unified School District (“District”) to ensure compliance with the California Voting Rights Act (Elections Code section 14025 et seq,)(“CVRA”). By granting this waiver, the District will be able to implement its new “by-trustee area” election system for its November 2018 elections to reduce any potential liability under the CVRA. Due to the fact that the CVRA grants a prevailing plaintiff the right to reasonable attorneys’ and expert witness fees, the District seeks to reduce the risk of costly litigation under the CVRA. By reducing the risk of such costly litigation in an expeditious and cost-efficient manner, the District will be able to ensure that cuts to necessary and valuable District student programs are not needed because of claims being brought under the CVRA.

Student Population: 24000

City Type: Urban

Public Hearing Date: 6/26/2017
Public Hearing Advertised: Newspaper, Internet, school sites, District Office

Local Board Approval Date: 6/26/2017

Community Council Reviewed Date: 6/5/2017
Community Council Objection: N
Community Council Objection Explanation:
Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Gregory Franklin
Position: Superintendent
E-mail: dhendrickson@tustin.k12.ca.us
Telephone: 714-730-7312
Fax:

Bargaining Unit Date: 05/30/2017
Name: Classified School Employees Association
Representative: Luis Guerrero
Title: President
Position: Support
Comments:

Bargaining Unit Date: 05/16/2017
Name: Classified School Management Association
Representative: Kyle Poe
Title: President
Position: Support
Comments:

Bargaining Unit Date: 06/05/2017
Name: Tustin Educators Association
Representative: Roger Kavigan
Title: President
Position: Support
Comments:
California Education Code Proposed for Waiver

Request to waive California Education Code Section 5020, and portions of sections 5019, 5021, and 5030, that require a districtwide election to establish a by-trustee-area method of election. Language proposed to be waived is bracketed and in italics below:

§ 5019. Trustee areas and size of school district governing boards; powers of county committee; proposal and hearing

(a) Except in a school district governed by a board of education provided for in the charter of a city or city and county, in any school district or community college district, the county committee on school district organization may establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or adopt one of the alternative methods of electing governing board members specified in Section 5030.

(b) The county committee on school district organization may establish or abolish a common governing board for a high school district and an elementary school district within the boundaries of the high school district. The resolution of the county committee on school district organization approving the establishment or abolition of a common governing board shall be presented to the electors of the school districts as specified in Section 5020.

(c) (1) A proposal to make the changes described in subdivision (a) or (b) may be initiated by the county committee on school district organization or made to the county committee on school district organization either by a petition signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters, by 3 percent or 100, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 to 10,000 qualified registered voters, by 1 percent or 250, whichever is less, of the qualified registered voters residing in a district in which there are 10,001 to 50,000 qualified registered voters, by 500 or more of the qualified registered voters residing in a district in which there are 50,001 to 100,000 qualified registered voters, by 750 or more of the qualified registered voters residing in a district in which there are 100,001 to 250,000 qualified registered voters, or by 1,000 or more of the qualified registered voters residing in a district in which there are 250,001 or more qualified registered voters or by resolution of the governing board of the district. For this purpose, the necessary signatures for a petition shall be obtained within a period of 180 days before the submission of the petition to the county committee on school district organization and the number of qualified registered voters in the district shall be determined pursuant to the most recent report submitted by the county elections official to the Secretary of State under Section 2187 of the Elections Code.

(2) When a proposal is made pursuant to paragraph (1), the county committee on school district organization shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee on school district organization shall approve or disapprove the proposal.

(d) If the county committee on school district organization approves pursuant to subdivision (a) the boundaries of trustee areas for a particular district, then the trustee areas shall be effectuated for the next district election.
occurring at least 120 days after [its ]approval[. unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. The petition for an election shall be submitted to the county elections official within 60 days of the proposal's adoption by the county committee on school district organization. If the qualified registered voters approve pursuant to subdivision (b) or (c) the rearrangement of the boundaries to the trustee areas for a particular district, the rearrangement of the trustee areas shall be effective for the next district election occurring at least 120 days after its approval by the voters].

§ 5020. Presentation of proposal to electors

(a) The resolution of the county committee approving a proposal to establish or abolish trustee areas, to adopt one of the alternative methods of electing governing board members specified in Section 5030, or to increase or decrease the number of members of the governing board shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board.

(b) If a petition requesting an election on a proposal to rearrange trustee area boundaries is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.

(c) If a petition requesting an election on a proposal to establish or abolish trustee areas, to increase or decrease the number of members of the board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030 is filed, containing at least 10 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. Before the proposal is presented to the electors, the county committee on school district organization may call and conduct one or more public hearings on the proposal.

(d) The resolution of the county committee approving a proposal to establish or abolish a common governing board for a high school and an elementary school district within the boundaries of the high school district shall constitute an order of election. The proposal shall be presented to the electors of the district at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.

(e) For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:
"For the establishment (or abolition or rearrangement) of trustee areas in ____ (insert name) School District --Yes" and "For the establishment (or abolition or rearrangement) of trustee areas in ____ (insert name) School District--No."

"For increasing the number of members of the governing board of ____ (insert name) School District from five to seven--Yes" and "For increasing the number of members of the governing board of ____ (insert name) School District from five to seven--No."

"For decreasing the number of members of the governing board of ____ (insert name) School District from seven to five--Yes" and "For decreasing the number of members of the governing board of ____ (insert name) School District from seven to five--No."

"For the election of each member of the governing board of the ____ (insert name) School District by the registered voters of the entire ____ (insert name) School District--Yes" and "For the election of each member of the governing board of the ____ (insert name) School District by the registered voters of the entire ____ (insert name) School District--No."

"For the election of one member of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--Yes" and "For the election of one member of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--No."

"For the election of one member, or more than one member for one or more trustee areas, of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters of the entire ____ (insert name) School District--Yes" and "For the election of one member, or more than one member for one or more trustee areas, of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters of the entire ____ (insert name) School District--No."

"For the establishment (or abolition) of a common governing board in the ____ (insert name) School District and the ____ (insert name) School District--Yes" and "For the establishment (or abolition) of a common governing board in the ____ (insert name) School District and the ____ (insert name) School District--No."

If more than one proposal appears on the ballot, all must carry in order for any to become effective, except that a proposal to adopt one of the methods of election of board members specified in Section 5030 which is approved by the voters shall become effective unless a proposal which is inconsistent with that proposal has been approved by a greater number of voters. An inconsistent proposal approved by a lesser number of voters than the number which have approved a proposal to adopt one of the methods of election of board members specified in Section 5030 shall not be effective.

§ 5021. Incumbents to serve out terms despite approval of change

(a) If a proposal for the establishment of trustee areas formulated under Section[s] 5019 [and 5020 ]is approved[ by a majority of the voters voting at the election], any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030. In the event
two or more trustee areas are established [at such election ] which are not represented in the membership of the governing board of the school district, or community college district the county committee shall determine by lot the trustee area from which the nomination and election for the next vacancy on the governing board shall be made.

(b) If a proposal for rearrangement of boundaries is approved by[a majority of the voters voting on the measure, or by] the county committee on school district organization[when no election is required], and if the boundary changes affect the board membership, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030.

(c) If a proposal for abolishing trustee areas is approved[by a majority of the voters voting at the election], the incumbent board members shall serve out their terms of office and succeeding board members shall be nominated and elected at large from the district.

§ 5030. Alternate method of election

Except as provided in Sections 5027 and 5028, in any school district or community college district having trustee areas, the county committee on school district organization and the registered voters of a district, pursuant to Section[s] 5019[and 5020, respectively], may at any time recommend one of the following alternate methods of electing governing board members:

(a) That each member of the governing board be elected by the registered voters of the entire district.

(b) That one or more members residing in each trustee area be elected by the registered voters of that particular trustee area.

(c) That each governing board member be elected by the registered voters of the entire school district or community college district, but reside in the trustee area which he or she represents.

The recommendation shall provide that any affected incumbent member shall serve out his or her term of office and that succeeding board members shall be nominated and elected in accordance with the method recommended by the county committee.

Whenever trustee areas are established in a district, provision shall be made for one of the alternative methods of electing governing board members.

[In counties with a population of less than 25,000, ]the county committee on school district organization or the county board of education, if it has succeeded to the duties of the county committee, may at any time, by resolution, with respect to trustee areas established for any school district, other than a community college district, amend the provision required by this section without additional approval by the electors, to require one of the alternate methods for electing board members to be utilized.
Specific Waiver

**SUBJECT**
Request by two local educational agencies under the authority of California *Education Code* Section 52863 for waivers of *Education Code* Section 52852, relating to schoolsite councils regarding changes in shared, composition, or shared and composition members.

Waiver Numbers: Mt. Shasta Union Elementary School District 3-8-2017
Stanislaus County Office of Education 13-8-2017

**SUMMARY OF THE ISSUE(S)**
Specific authority is provided in California *Education Code* (EC) Section 52863 to allow the State Board of Education to waive the Schoolsite Council (SSC) requirements contained in EC Section 52852 of the School-Based Coordination Program Act that would hinder the success of the program implementation. These waivers must be renewed every two years.

**Authority for Waiver:** EC Section 52863

**RECOMMENDATION**
- Approval
- Approval with conditions
- Denial

The California Department of Education (CDE) recommends approval with conditions (see Attachment 1).

**SUMMARY OF KEY ISSUES**

The Mt. Shasta Union Elementary School District is requesting an SSC composition change for a small school: Sisson School (18 teachers serving 313 students in grades four through eight). The school is located in a rural area.

The Stanislaus County Office of Education is requesting a shared SSC for two schools: Peterson Alternative Center for Education (9 teachers serving 155 students in grades six through twelve) and Stanislaus County West Campus (7 teachers serving 64 students in kindergarten through grade twelve). These two schools have many similarities being adjacent to each other in an urban area. The principals of both schools supervise more than one campus.
SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its May 2012 meeting, the SBE approved the Mt. Shasta Union Elementary School District’s request for an SSC composition change for Sisson School. The waiver was approved for a period of two years, ending on January 1, 2014. (http://www.cde.ca.gov/be/ag/ag/yr12/documents/may12w20.doc; http://www.cde.ca.gov/be/ag/ag/yr12/documents/may12w20a05.doc)

At its May 2015 meeting, the SBE approved the Stanislaus County Office of Education’s request for a shared SSC for Peterson Alternative Center for Education and Stanislaus County West Campus. The waiver was approved for a period of two years, ending on June 30, 2016. (http://www.cde.ca.gov/be/ag/ag/yr15/documents/may15w12.doc)

The CDE has previously presented requests from local educational agencies (LEAs) to waive some of the SSC requirements in EC Section 52863 or to allow one shared SSC for multiple schools. All of these requests have been granted with conditions. The conditions take into consideration the rationale provided by the LEAs, a majority of which are due to the size, type, location, or other capacities of the schools.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: Local Educational Agencies Requesting a Schoolsite Council Waiver (1 Page)

Attachment 2: Mt. Shasta Union Elementary School District Specific Waiver Request 3-8-2017 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Stanislaus County Office of Education Specific Waiver Request 13-8-2017 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)
# Local Educational Agencies Requesting a Schoolsite Council Waiver

<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>Local Educational Agency (LEA) for School(s) (County-District-School Code[s])</th>
<th>LEAs Request for a Schoolsite Council (SSC) Waiver</th>
<th>California Department of Education Recommendation</th>
<th>Waiver Renewal Yes or No</th>
<th>Period of Request/Period Recommended</th>
<th>Collective Bargaining Unit Position/Current Agreement</th>
<th>SSC/Advisory Committee Position</th>
<th>Local Board Approval Date</th>
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<tbody>
<tr>
<td>3-8-2017</td>
<td>Mt. Shasta Union Elementary School District for Sisson School (4770425 0131102)</td>
<td>SSC composition change</td>
<td>Approval with conditions: the SSC must consist of one principal, two classroom teachers (selected by peers), one other school representative (selected by peers), and four parents/community members (selected by parents).</td>
<td>No</td>
<td>Requested: 01/01/2017 to 01/01/2019</td>
<td>Mt. Shasta California School Employees Association Lynda Smyth President 12/13/2016</td>
<td>Sisson SSC 12/08/2016</td>
<td>01/17/2017</td>
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<td>13-8-2017</td>
<td>Stanislaus County Office of Education for Peterson Alternative Center for Education (5010504 5030226) and Stanislaus County West Campus (5010504 5030069)</td>
<td>Shared SSC</td>
<td>Approval with conditions: the SSC must consist of one principal, four classroom teachers (selected by peers), one other school representative (selected by peers), three parents/community members (selected by parents), and three students (selected by peers).</td>
<td>No</td>
<td>Requested: 07/01/2017 to 06/30/2019</td>
<td>California School Employees Association Terri Stone President 08/22/2017</td>
<td>Peterson Alternative Center for Education and Stanislaus County West Campus shared SSC</td>
<td>05/05/2017</td>
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Created by the California Department of Education  
August 8, 2017
California Department of Education
WAIVER SUBMISSION - Specific

CD Code: 4770425  Waiver Number: 3-8-2017  Active Year: 2017

Date In: 8/3/2017 9:49:13 AM

Local Education Agency: Mt. Shasta Union Elementary School District
Address: 595 East Alma St.
Mt. Shasta, CA 96067

Start: 1/1/2017  End: 1/1/2019

Waiver Renewal: Y
Previous Waiver Number: 16-1-2012  Previous SBE Approval Date: 5/9/2012

Waiver Topic: Schoolsite Council Statute
Ed Code Title: Number and Composition of Members
Ed Code Section: 52852
Ed Code Authority: 52863

Ed Code or CCR to Waive: 52852. A schoolsite council shall be established at each school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.

At the elementary level the council shall be constituted to ensure parity between (a) the principal, classroom teachers and other school personnel; and (b) parents or other community members selected by parents.

Outcome Rationale: After much recruitment, our small, rural school is unable to get enough parents to meet the requirement of 5 parent members. Parents have declined participating in SSC because they are involved in a number of other volunteer roles that support the school and/or are working multiple jobs.

The waiver is requested to allow Sisson School to operate this elementary School Site Council with 8 members instead of 12 members. The SSC composition would consist of 1 administrator, 2 teachers, 1 classified employee, and 4 parents/guardian and community members. This composition would allow for a majority of teachers on the staff side and would ensure parity between staff members and parents/community members.

Student Population: 313

City Type: Rural

Local Board Approval Date: 1/17/2017

Revised: 11/3/2017 3:53 PM
Council Reviewed By: Sisson Site Council
Council Reviewed Date: 12/8/2016
Council Objection: N
Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Leanna Rizzo
Position: Director of State and Federal Programs
E-mail: lrizzo@siskiyoucoe.net
Telephone: 530-842-8415
Fax:

Bargaining Unit Date: 12/13/2016
Name: Mt. Shasta California School Employees Association (CSEA)
Representative: Lynda Smyth
Title: President
Position: Support
Comments:

Bargaining Unit Date: 12/13/2016
Name: Mt. Shasta Elementary Teachers Association
Representative: Cheryl Keiner
Title: President
Position: Support
Comments:
WAIVER SUBMISSION - Specific

CD Code: 5010504  Waiver Number: 13-8-2017  Active Year: 2017

Date In: 8/23/2017 2:25:38 PM

Local Education Agency: Stanislaus County Office of Education
Address: 1100 H St.
Modesto, CA 95354

Start: 7/1/2017  End: 6/30/2019

Waiver Renewal: Y  Previous Waiver Number: 14-1-2015-W-12  Previous SBE Approval Date: 9/13/2012

Waiver Topic: Schoolsite Council Statute
Ed Code Title: Shared Schoolsite Council with Reduced Number and Composition
Ed Code Section: 52852
Ed Code Authority: 52863

Ed Code or CCR to Waive: EC 52852 A school site council shall be established at Petersen Alternative Center for Education and Stanislaus County West Campus which participates in school based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at [the] each school; parents of pupils attending [the] each school selected by such parents; and, in secondary schools, pupils selected by pupils attending [the] each school.

Outcome Rationale: The SCOE Educational Options school sites are supervised by principals who are responsible for more than one site. The PACE principal also oversees the West Campus (Juvenile Hall) which operates under it's own CDS code. The two sites are adjacent to each other geographically. The county office supports both school sites with county administration, curriculum and assessment services, professional development and often teachers transfer from site to site as enrollment numbers dictate.

Student Population: 350

City Type: Urban

Local Board Approval Date: 5/5/2017

CouncilReviewed By: PACE SSC
Council Reviewed Date: 5/5/2017
Council Objection: N
Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N
Submitted by: Mr. John Luis
Position: Principal
E-mail: jluis@stancoe.org
Telephone: 209-238-6716
Fax:

Bargaining Unit Date: 08/22/2017
Name: CSEA
Representative: Terri Stone
Title: President
Position: Support
Comments:
SUBJECT
Requests by two county offices of education to waive California Code of Regulations, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for Deaf and Hard of Hearing students meet minimum qualifications as of August 4, 2017, to allow two interpreters to continue to provide services to students until June 30, 2018, under a remediation plan to complete those minimum requirements.

Waiver Numbers:
San Joaquin County Office of Education 4-9-2017
San Luis Obispo County Office of Education 2-9-2017

SUMMARY OF THE ISSUES
The State Board of Education (SBE) must determine if Aimee Pastran and Jennifer Barnett qualify for an educational interpreter waiver to provide educational interpreting services until June 30, 2018.

Authority for Waiver: Education Code (EC) Section 33050

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends that the SBE approve the waiver requests by these two county offices of education with the conditions shown in Attachment 1.

SUMMARY OF KEY ISSUES

The Individual with Disabilities Education Improvement Act of 2004 (IDEIA 2004) requires that interpreters for pupils who are Deaf or Hard of Hearing meet state-approved or state-recognized certification, registration, or other comparable requirements, as defined in Title 34 of the Code of Federal Regulations, Section 300.156(b)(1).

To meet this federal requirement, the California Code of Regulations, Section 3051.16(b)(3) requires the following:
By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the Educational Interpreter Performance Assessment (EIPA), the Educational Sign Skills Evaluation-Interpreter/Receptive (ESSE-I/R), or the National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment. If providing Cued Language transliteration, a transliterator shall possess Testing/Evaluation and Certification Unit (TECUnit) certification, or have achieved a score of 4.0 or above on the EIPA – Cued Speech.

Assessments Overview:

According to the Educational Sign Skills Evaluation (ESSE) Web site at https://seecenter.org/e-s-s-e:

- “The interpreter is videotaped while interpreting three classes, in different subject areas and with different teachers. Each session is approximately 5 minutes in length. This videotape of the interpreter is viewed by a trained panel of five members (consisting of both hearing and deaf) familiar with a variety of signing styles and with education of the K-12 levels.”
- “Each of the five panelists completes a rating form with ratings from 1 (low) to 5 (high) for five separate areas: signs, fingerspelling, expressiveness, speechreading and an overall rating.”
- “The ratings of the five panelists are combined for an average rating in each of the five areas plus the receptive score of the dominant style of the individual.”

According to San Joaquin County Office of Education, Ms. Pastran may be allowed to interpret in the K-12 classroom because she has taken the ESSE exams and has received a score of 4.0 on the receptive and 3.0 on the expressive section of the ESSE. She has retaken the test on August 26, 2017. The results of the exam take 3-6 months to receive.


The EIPA score of 3.3 requires “continued supervision and should be required to participate in continuing education in interpreting.” The current score indicates that this educational interpreter:

- “Demonstrates knowledge of basic vocabulary, but will lack vocabulary for more technical, complex, or academic topics” and is “able to sign in a fairly fluent manner using some consistent prosody, but pacing is still slow with infrequent pauses for vocabulary or complex structures.”
Moreover, the score of 3.3 indicates that:

- “Sign production may show some errors but generally will not interfere with communication.”
- “Grammatical production may be still incorrect, especially for complex structures, but is in general intact for routine and simple language.”
- “Comprehends signed messages but may need repetition and assistance.”
- “Voiced translation often lacks depth and subtleties of the original message.”
- “An individual at this level would be able to communicate very basic classroom content, but may incorrectly interpret complex information resulting in a message that is not always clear.”

According to San Luis Obispo County Office of Education, Ms. Barnett may be allowed to interpret in the K-12 classroom because she passed the National Interpreter Certification (NIC) Knowledge Exam on August 19, 2013 although she failed the NIC Performance Exam on May 25, 2017, and she plans to take the EIPA at the end of 2017. Ms. Barnett would need to reach the state-required RID certification or other qualified certification in order to continue in this position after the waiver period ends.

Demographic Information:

The San Joaquin County Office of Education has a general student population of 848 in the suburban part of San Joaquin County.

The San Luis Obispo County Office of Education has a Deaf and Hard of Hearing student population of six in the suburban part of San Luis Obispo County.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a), available at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In 2002, the SBE approved regulations that required educational interpreters to be certified by the RID, or equivalent, by January 1, 2007. As of July 1, 2009, they have been required to be certified by the RID, or equivalent, or to have achieved a score of 4.0 or better on specified assessments.

In November 2009, the SBE approved a policy regarding educational interpreter waiver requests. That policy is on the CDE Web site at http://www.cde.ca.gov/re/lr/wr/documents/interpreter_000.doc.
FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, Information Regarding Test Scores and Conditions (2 pages)

Attachment 2: San Joaquin County Office of Education General Waiver Request 4-9-2017 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: San Luis Obispo County Office of Education General Waiver Request 2-9-2017 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>LEA</th>
<th>Interpreter</th>
<th>Period of Request</th>
<th>Local Board and Public Hearing Approval Date</th>
<th>Public Hearing Requirement</th>
<th>Bargaining Unit, Representative Consulted, Date and Position</th>
<th>Advisory Committee Consulted, Date and Position</th>
<th>Previous Waivers (Yes/No)</th>
<th>Date</th>
<th>Public Hearing Requirement</th>
<th>Name, Date, and Score of Most Recent Evaluation</th>
<th>Name, Dates, and Scores of Previous Evaluations</th>
<th>Date of Hire</th>
</tr>
</thead>
<tbody>
<tr>
<td>4-9-2017</td>
<td>San Joaquin County Office of Education (SJCOE)</td>
<td>Aimee Pastran</td>
<td><strong>Requested:</strong> September 1, 2017 to August 31, 2018</td>
<td>A Public Notice was posted at SJCOE with information regarding the regulations being waived and the length of the waiver. Local Board approved 8/30/2017</td>
<td>California School Employees Association Chapter #755</td>
<td>Hernan Mendoza 8/18/2017 CSEA President</td>
<td>Community Council Reviewed by Personnel Commission 9/25/2017 No objection</td>
<td>No</td>
<td>8/21/2017</td>
<td>Educational Sign Skills Evaluation 12/2013 Elementary School Grade Level Expressive Pidgin Signed English 3.0 Receptive in American Sign Language 4.0</td>
<td>National Interpreter Certification Knowledge Exam Passed 8/19/2013</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Conditions:**

Ms. Pastran was promoted to the position of Educational Sign Language Interpreter in the Special Education Department with the understanding that:

1. Ms. Pastran will take the Expressive skills section on August 26, 2017.
2. Ms. Pastran will be provided with a mentor or tutor to assist her one-on-one if she does not pass the Expressive skills section of the test.
3. San Joaquin County Office of Education will give Ms. Pastran until August 21, 2018, to pass the Expressive skills section.
### List of Waiver Numbers, Districts, Information Regarding Test Scores and Conditions

<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>LEA</th>
<th>Interpreter</th>
<th>Period of Request</th>
<th>Local Board and Public Hearing Approval Date</th>
<th>Public Hearing Requirement</th>
<th>Bargaining Unit, Representative Consulted, Date and Position</th>
<th>Advisory Committee Consulted, Date and Position</th>
<th>Previous Waivers (Yes/No)</th>
<th>Date</th>
<th>Name, Date, and Score of Most Recent Evaluation</th>
<th>Name, Dates, and Scores of Previous Evaluations</th>
<th>Date of Hire</th>
</tr>
</thead>
</table>

#### Conditions:

While Ms. Barnett plans to take the EIPA at the end of 2017, she was selected for the position with the understanding that:

1. Ms. Barnett will have access to Laurie Walcott, a Certified Interpreter for the Deaf who will consult with Ms. Barnett on an ongoing basis in the same classroom.
2. Ms. Walcott will provide Ms. Barnett with consultation, mentorship and guidance on improving American Sign Language skills.
3. Ms. Walcott will be able to provide feedback to Ms. Barnett about her performance as an interpreter during these times.
4. Ms. Barnett may not be able to continue in her current position if she fails to pass the required interpreter examination or if a waiver is not granted.
Outcome Rationale: The San Joaquin County Office of Education currently has six vacant Educational Sign Language Interpreter positions available, we have a continuous posting on EdJoin, that we have not received one candidate that meets the minimum qualifications of a 4.0 certification. Aimee Pastran is currently employed with SJCOE as an instructional assistant, and has taken the exams and has received a score of 4.0 on the receptive and 3.0 on the expressive section of the ESSE. Ms. Pastran has retaken the test on August 26, 2017. The results of the exam take 3-6 months to receive, we are applying for a waiver so that she has time to take exam, receive mentoring and will have additional time to take the Exam if she does not pass.

Student Population: 848

City Type: Suburban

Public Hearing Date: 8/21/2017
Public Hearing Advertised: A Public Notice was posted at SJCOE with information regarding the regulations being waived and the length of the waiver.

Local Board Approval Date: 8/30/2017
Community Council Reviewed By: Community Advisory Comm (CAC) - must apply appear on
the agenda for the Sept 25, 2017 meeting. 
Community Council Reviewed Date: 8/30/2017
Community Council Objection: Y
Community Council Objection Explanation: In order to be placed on the agenda, we need to submit waiver, we will follow up with the outcome

Audit Penalty YN: N
Categorical Program Monitoring: N

Submitted by: Ms. Aggie Christensen
Position: Coordinator II
E-mail: achristensen@sjcoe.net
Telephone: 209-468-9039
Fax: 209-468-9226

Bargaining Unit Date: 08/18/2017
Name: California School Employees Association Ch #755
Representative: Hernan Mendoza
Title: CSEA President
Position: Support
Comments:
Waiver Topic: Special Education Program
Ed Code Title: Educational Interpreter for Deaf and Hard of Hearing
Ed Code Section: CCR, Title 5 Section 3051.16(b)(3)
Ed Code Authority: 33050-33053

Ed Code or CCR to Waive: [By July 1, 2009, and thereafter, an educational interpreter shall be
certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an
educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ESSE-I/R,
or the NAD/ACCI assessment. If providing Cued Language transliteration, a transliterator shall
possess TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued
Speech.]

Outcome Rationale: Jennifer Barnett has been hired for the Interpreter for the Deaf position with the San Luis Obispo County Office of Education. Her hire date is 8/11/17 and her first day with students will be 8/17/17. Jennifer passed the NIC Knowledge Exam 8/19/13. She took the NIC Interview & Performance Exam May 25, 2017, and did not pass.

San Luis Obispo County Office of Education recruited for this position via www.edjoin.org. Unfortunately other suitable candidates had no certification, did not pass the required exam, or withdrew from the process due to other employment. Jennifer Barnett was selected for the position with the understanding that she would need to reach the state-required RID certification or other qualified certification in order to continue in this position.

Student Population: 6

City Type: Suburban

Public Hearing Date: 8/17/2017
Public Hearing Advertised: Company website, Physical posting at main office, Local media email distribution, School district email distribution

Local Board Approval Date: 8/29/2017
Community Council Reviewed By: Personnel Commission
Community Council Reviewed Date: 8/29/2017
Community Council Objection: N
Community Council Objection Explanation:

Audit Penalty YN: N
Categorical Program Monitoring: N

Submitted by: Ms. Jenni Pong
Position: Human Resources Specialist
E-mail: jpong@slocoe.org
Telephone: 805-782-7248
Fax: 805-541-1105

Bargaining Unit Date: 08/10/2017
Name: California School Employees Association (CSEA)
Representative: Jacki Seibert
Title: CSEA Chapter President
Position: Support
Comments:
CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2017 AGENDA

☑ General Waiver

SUBJECT
Request by Fallbrook Union Elementary School District to waive California Code of Regulations, Title 5, Section 3043(d), which requires a minimum of 20 school days for an extended school year (summer school) for students with disabilities.

Waiver Number: 11-7-2017

SUMMARY OF THE ISSUES

The Fallbrook Union Elementary School District (FUESD) requests to be allowed to provide instruction in fewer than the 20 school days required by law for extended school year (ESY). The FUESD proposes an alternate schedule that will allow provision of the minimum number of hours required, but in fewer days.

Authority for Waiver: California Education Code (EC) Section 33050

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends that the State Board of Education (SBE) approve the request from the FUESD to provide ESY services for fewer than 20 days with the condition that instructional hours are consistent with those provided to the general education enrollment at the same grade level unless an individualized education program (IEP) specifies otherwise. Also, special education and related services offered during the ESY period must be comparable in standards, scope, and quality to the special education program offered during the regular academic year as required by California Code of Regulations, Title 5, Section 3043.

SUMMARY OF KEY ISSUES

The FUESD proposes to provide ESY services using a 16-day schedule, Mondays through Thursdays, with five hours of instruction per day. The ESY program will run June 18–July 14, 2018, excluding the Fourth of July holiday.

The FUESD has had difficulties recruiting ESY teachers in the past, and a shorter ESY schedule will increase teacher interest in participating in the program. Additionally, there will be a fiscal savings of 20 percent of the cost of transportation.
Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC Section 33051(a), available at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In the past, the SBE approved waivers to allow school districts to provide the required minimum amount of instruction in fewer days during the ESY for students with disabilities.

ESY is the term for the education of students with disabilities “between the close of one academic year and the beginning of the next,” similar to a summer school. The ESY must be provided for each student with a disability whose IEP requires it. Local educational agencies may request a waiver to provide an ESY program for fewer days than the traditional mode.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: Extended School Year Summary Table (1 page)

Attachment 2: Fallbrook Union Elementary School District General Waiver Request 11-7-2017 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
## Extended School Year Summary Table

<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>District</th>
<th>Period of Request</th>
<th>Demographics</th>
<th>Local Board and Public Hearing Approval Date</th>
<th>Bargaining Unit, Representative Consulted, Date, and Position</th>
<th>Public Hearing Advertised</th>
<th>Advisory Committee or Site Council Consulted/ Date</th>
</tr>
</thead>
</table>
| 11-7-2017     | Fallbrook Union Elementary School District | **Period Requested:** 8/14/2017 to 6/1/2018  
**Recommended:** 6/18/2017 to 7/14/2018  
16 instructional days at 5 hours/day  
80 hours total | Student population: 4,792  
Area: Rural  

Created by the California Department of Education  
August 28, 2017
California Department of Education  
WAIVER SUBMISSION - General

CD Code: 3768114       Waiver Number: 11-7-2017       Active Year: 2017

Date In: 7/18/2017 2:25:19 PM

Local Education Agency: Fallbrook Union Elementary School District  
Address: 321 North Iowa St.  
Fallbrook, CA 92028

Start: 8/14/2017       End: 6/1/2018

Waiver Renewal: N  
Previous Waiver Number:       Previous SBE Approval Date:

Waiver Topic: Special Education Program  
Ed Code Title: Extended School Year (Summer School)  
Ed Code Section: 3043(d)  
Ed Code Authority: 33050

Ed Code or CCR to Waive: Extended school year services shall be provided for each individual with exceptional needs who has unique needs and requires special education and related services in excess of the regular academic year. Such individuals shall have handicaps which are likely to continue indefinitely or for a prolonged period, and interruption of the pupil’s educational programming may cause regression, when coupled with limited recoupment capacity, rendering it impossible or unlikely that the pupil will attain the level of self-sufficiency and independence that would otherwise be expected in view of his or her handicapping condition. The lack of clear evidence of such factors may not be used to deny an individual an extended school year program if the individualized education program team determines the need for such a program and includes extended school year in the individualized education program pursuant to subsection (f).

(a) Extended year special education and related services shall be provided by a school district, special education local plan area, or county office offering programs during the regular academic year.

(b) Individuals with exceptional needs who may require an extended school year are those who:  
(1) Are placed in special classes or centers; or (2) Are individuals with exceptional needs whose individualized education programs specify an extended year program as determined by the individualized education program team.

(c) The term “extended year” as used in this section means the period of time between the close of one academic year and the beginning of the succeeding academic year. The term “academic year” as used in this section means that portion of the school year during which the regular day school is maintained, which period must include not less than the number of days required to entitle the district, special education services region, or county office to apportionments of state funds.
[(d) An extended year program shall be provided for a minimum of 20 instructional days, including holidays]

Outcome Rationale: Our district has difficulties recruiting teachers to teach ESY. Making the ESY schedule a 4 day per week schedule would increase teacher interest in teaching ESY. The amount of hours students receive would not change as they would receive 5 hours of instruction per day for 16 days vs. 4 hours of instruction per day for 20 days. Additionally there would be a fiscal savings of 20% of the cost of transportation.

Student Population: 4792

City Type: Rural

Public Hearing Date: 7/17/2017
Public Hearing Advertised: Board Meeting Agenda posted on district website

Local Board Approval Date: 7/17/2017

Community Council Reviewed By: FUESD Board of Directors and FUESD cabinet members
Community Council Reviewed Date: 7/17/2017
Community Council Objection: N
Community Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Ms. Page McKennett
Position: Special Education Director
E-mail: pmckennett@fuesd.org
Telephone: 760-731-5413
Fax: 760-723-2186

Bargaining Unit Date: 06/08/2017
Name: Fallbrook Elementary Teacher's Association
Representative: Jennifer Mariucci
Title: FETA President
Position: Support
Comments:
General Waiver

SUBJECT
Request by two local educational agencies to waive the State Testing Apportionment Information Report deadline as stipulated in the California Code of Regulations, Title 5, Section 11517.5(b)(1)(A), regarding the California English Language Development Test; or Title 5, Section 862(b)(2)(A), regarding the California Assessment of Student Performance and Progress System.

Waiver Numbers:
Norris Elementary School District 1-8-2017
Templeton Unified School District 7-7-2017

SUMMARY OF THE ISSUES
State regulations for the California English Language Development Test (CELDT), and the California Assessment of Student Performance and Progress (CAASPP) System each include, as a condition to be eligible for apportionment reimbursement, an annual deadline for the return of a certified State Testing Apportionment Information Report for prior year testing.

The local educational agencies (LEAs) filing for this waiver request missed the regulatory deadline for one or more State Testing Apportionment Information Report(s) for the 2014–15 and/or 2015–16 school years.

Authority for Waiver: Education Code (EC) Section 33050

RECOMMENDATION

Approval  Approval with conditions  Denial

The California Department of Education (CDE) recommends that the state regulatory deadline for submission of the State Testing Apportionment Information Reports be waived for the LEAs and school year(s) shown on Attachment 1.

SUMMARY OF KEY ISSUES
Each fall, the CDE develops separate State Testing Apportionment Information Reports
Standardized Testing and Reporting reports were developed and distributed from 1998 to 2013. The reports include the amount to be apportioned to the LEA based on the number of pupils tested during the previous school year. The CDE distributes the reports to the LEAs. State regulations require each LEA to certify the accuracy of the report by returning a signed report to the CDE by the regulatory deadline.

The LEAs filing for this waiver request missed the regulatory deadline for one or more State Testing Apportionment Information Report(s) for the 2014–15 and/or 2015–16 school years.

CDE staff verified that these LEAs submitted their report after the deadline and are required to submit a waiver as a condition to receive the applicable apportionment reimbursement.

**Demographic Information:**

Norris Elementary School District has a student population of 4024 and is located in a suburban area of Kern County.

Templeton Unified School District has a student population of 2364 and is located in a suburban area of San Luis Obispo County.

**Because this is a general waiver, if the State Board of Education (SBE) decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a),** available at [http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051).

**SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

The SBE has approved all previous LEA requests to waive the State Testing Apportionment Information Report deadline since deadlines for submission of the State Testing Apportionment Information Reports were added to the *California Code of Regulations*. The SBE Waiver Policy 08-#: State Testing Apportionment Informational Report Deadline is available at [http://www.cde.ca.gov/re/lr/wr/documents/statetesting.doc](http://www.cde.ca.gov/re/lr/wr/documents/statetesting.doc).

**FISCAL ANALYSIS (AS APPROPRIATE)**

If these waivers are approved, these two LEAs will be reimbursed for the costs of the CELDT and/or the CAASPP System for the 2014–15 and/or 2015–16 school years. Total costs are indicated on Attachment 1, and the waiver request from the LEAs are included as Attachments 2 and 3.

**ATTACHMENT(S)**

Attachment 1: Local Educational Agencies Requesting Waiver of State Testing

Attachment 2: Norris Elementary School District General Waiver Request 1-8-2017 (2 Pages). (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Templeton Unified School District General Waiver Request 7-7-2017 (2 Pages). (Original waiver request is signed and on file in the Waiver Office.)
Local Educational Agencies Requesting Waiver of State Testing Apportionment Information Report Deadline – November 2017

<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>Local Educational Agency</th>
<th>Period of Request</th>
<th>Test Report(s) Missing</th>
<th>Report(s) Submitted</th>
<th>School Year(s)</th>
<th>Reimbursement Amount</th>
<th>Union Position</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Recommended: July 1, 2015 to March 1, 2016</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7-7-2017</td>
<td>Templeton Unified School District</td>
<td>Requested: March 1, 2017 to July 31, 2017</td>
<td>California Assessment of Student Performance and Progress (CAASPP)</td>
<td>Yes</td>
<td>2015–16</td>
<td>$5,814.68</td>
<td>Support</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Recommended: July 1, 2015 to March 1, 2016</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Created by the California Department of Education
September 12, 2017
**California Department of Education**

**WAIVER SUBMISSION - General**

<table>
<thead>
<tr>
<th>CD Code: 1563693</th>
<th>Waiver Number: 1-8-2017</th>
<th>Active Year: 2017</th>
</tr>
</thead>
</table>

**Date In:** 8/2/2017 1:21:56 PM

**Local Education Agency:** Norris Elementary School District  
Address: 6940 Calloway Dr.  
Bakersfield, CA 93312

**Start:** 3/1/2017  
**End:** 8/31/2017

**Waiver Renewal:** N  
**Previous Waiver Number:**  
**Previous SBE Approval Date:**

**Waiver Topic:** State Testing Apportionment Report  
**Ed Code Title:** CAASPP  
**Ed Code Section:** 60640  
**Ed Code Authority:** 33050

**Ed Code or CCR to Waive:**  
[Section 862 Apportionment Information Report (B) if transmitted after March 1, the apportionment information report must be accompanied by a waiver request as provided by Ed. Code section 33050.]

**Outcome Rationale:** A deadline was missed due to internal factors. We are requesting reimbursement of the CAASPP per the 2015-16 Apportionment Information Report. The reimbursement funds help the district cover the cost of administering assessments.

**Student Population:** 4024

**City Type:** Suburban

**Public Hearing Date:** 7/12/2017  
**Public Hearing Advertised:** Website per board agenda and posted at all local schools and at district office with physical copies of agenda.

**Local Board Approval Date:** 7/12/2017

**Community Council Reviewed By:** District Advisory Committee  
**Community Council Reviewed Date:** 6/29/2017  
**Community Council Objection:** N  
**Community Council Objection Explanation:**

**Audit Penalty YN:** N

**Categorical Program Monitoring:** N

**Submitted by:** Ms. Chantel Mebane  
**Position:** Administrator of Instructional Support Services

11/3/2017 3:54 PM
E-mail: chantel.mebane@norris.k12.ca.us
Telephone: 661-387-7000
Fax:

Bargaining Unit Date: 06/28/2017
Name: Norris Teachers Association
Representative: Pamala Angell
Title: President
Position: Support
Comments:
CD Code: 4068841    Waiver Number: 7-7-2017    Active Year: 2017

Date In: 7/10/2017 11:23:33 AM

Local Education Agency: Templeton Unified School District
Address: 960 Old County Rd.
Templeton, CA 93465

Start: 3/1/2017    End: 7/31/2017

Waiver Renewal: N
Previous Waiver Number:   Previous SBE Approval Date: 

Waiver Topic: State Testing Apportionment Report
Ed Code Title: CAASPP
Ed Code Section: 60640
Ed Code Authority: 33050

Ed Code or CCR to Waive: Section 862 Apportionment Information Report (B) if transmitted after March 1, the apportionment information report must be accompanied by a waiver request as provided by Ed. Code section 33050. 

Outcome Rationale: Job transition to a new CAASPP coordinator in Feb 2017 meant that the signing of the apportionment report did not happen before the March 1st, 2017 deadline.

Student Population: 2364
City Type: Suburban
Public Hearing Date: 6/15/2017
Public Hearing Advertised: Website with board agenda and posted at District Office with physical copy access.
Local Board Approval Date: 6/15/2017
Community Council Reviewed By: Tech Committee
Community Council Reviewed Date: 6/2/2017
Community Council Objection: N
Community Council Objection Explanation:

Audit Penalty YN: N
Categorical Program Monitoring: N
Submitted by: Mr. Andrew Alsup
Position: Director of Technology & Information Systems
E-mail: aalsup@templetonusd.org
Telephone: 805-434-4073
Fax:

Bargaining Unit Date: 05/30/2017
Name: Templeton Teachers Association
Representative: Kelley Meece
Title: President Templeton Teachers Association
Position: Support
Comments:
## General Waiver

### SUBJECT

Request by Wiseburn Unified School District to waive portions of Education Code sections 47605 and 47605.1 for RISE High which concern Nonclassroom-Based Charter School Resource Center Location.

Waiver Number: 6-8-2017

### SUMMARY OF THE ISSUES

The Wiseburn Unified School District (WUSD) is requesting a waiver, on behalf of RISE High (RISE), to allow the nonclassroom-based charter school’s resource center to operate outside of the boundaries of the school district, as identified in Attachment 1.

**Authority for Waiver:** Education Code (EC) Section 33050

### RECOMMENDATION

- Approval with conditions

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the request from WUSD for RISE as provided in Attachment 1, consistent with the SBE’s Waiver Policy “Nonclassroom-Based Charter School Resource Center Location,” Policy #17-01 approved by the SBE on March 9, 2017, with the following conditions:

- Require RISE’s governing body to approve a transition plan that details how the charter school’s resource center will come into compliance with the Anderson court decision.

- Pursuant to EC Section 33051(b), the waiver shall expire on June 30, 2018, and shall not be retroactive.

- Require RISE to submit the transition plan to the WUSD, Los Angeles Unified School District (LAUSD), and Los Angeles County Office of Education (LACOE), within 30 days.
after approval of the waiver.

Require RISE to provide a status update to parents.

If WUSD has not visited the resource center pursuant to EC Section 47604.32(a)(2), require the authorizer to visit the resource center within a reasonable time frame.

**SUMMARY OF KEY ISSUES**

In *Anderson Union High School District v. Shasta Secondary Home School* (2016) 4 Cal. App. 5th 262 (*Anderson*), the Third District Court of Appeal (Third District) held that the geographic restrictions in EC sections 47605(a) and 47605.1(d) apply to nonclassroom-based charter schools operating resource centers. Thus, in order to ensure compliance with this court opinion, a nonclassroom-based charter school resource center must operate within the boundaries of its authorizing school district, unless an exception applies. Additionally, the charter school may establish a resource center in an adjacent county.

On January 18, 2017, the California Supreme Court denied review of the Third District’s opinion, which thus became final on that date. In consequence, waiver applications relying on *Anderson* became ripe for consideration. The policy adopted by the SBE sets forth guidelines for the processing of the waiver applications and to facilitate management of the SBE’s agenda. Consistent with *Anderson*, waivers shall apply only to existing, noncomplying resource centers of nonclassroom-based charter schools.

Consistent with the SBE’s policy, WUSD and RISE submitted the following additional information, as detailed in Attachment 1:

1. The address of the resource center, school district in which the resource center is located, date the resource center was established, and number of students attending the resource center.

2. For the resource center subject to the waiver request, discussion of the need for the waiver.

RISE has been authorized to operate an independent study program serving students experiencing homelessness; foster and transition-aged youth; and other students traditionally left out of the larger educational narrative with no fixed place of residence within Los Angeles County.

RISE has partnered with “A Place Called Home” to provide services to RISE’s students. At that facility, RISE students will have access to instructional support and resources, including access to technology to complete projects, special education services, and one-on-one tutoring and homework assistance. The facility will also provide a variety of wrap-around programs and services including enrichment, training,
and opportunities through educational programs, counseling, mentorship, college preparation, SAT tutoring, college counseling, and scholarships. After-school, weekend, and all-day summer programs and services include tutoring, homework support, as well as a full spectrum of instruction in the arts, athletics, dance, and music are provided.

The RISE charter school was authorized in November 2016 and subsequently began serving students in August 2017. Therefore, this waiver request does not comply with the SBE’s policy since the charter school was not in existence at the time the SBE’s policy was adopted. However, the CDE is recommending approval of the waiver because of unique nature of the school’s population. The students attending RISE are primarily homeless students who may have a limited ability to attend school and access the supports provided by RISE and “A Place Called Home” other than through this program. Providing these supports to homeless students is consistent with the federal McKinney-Vento Homeless Assistance Act which requires school districts to increase the identification, enrollment, stability, and school success of children and youth experiencing homelessness.

Additionally, although WUSD had requested a permanent waiver as noted in Attachment 2, in a subsequent email WUSD Superintendent, Tom Johnstone, stated that if a waiver is granted, WUSD would expect RISE to submit a transition plan for the school to operate in compliance with the Anderson court decision for the 2018–19 school year and thereafter. Therefore, CDE is recommending approval of this waiver with the conditions noted above.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC Section 33051(a), available at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051.

**SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**


**FISCAL ANALYSIS (AS APPROPRIATE)**

There is no statewide fiscal impact of waiver approval.

**ATTACHMENT(S)**

Attachment 1: Summary Table: Nonclassroom-Based Charter School Resource Center Location (1 Page)
Attachment 2: Wiseburn Unified School District Waiver Request for RISE High (#1865) 6-8-2017 (4 Pages). (Original waiver request is signed and on file in the Waiver Office.)
## Nonclassroom-Based Charter School Resource Center Location

<table>
<thead>
<tr>
<th>Waiver Number</th>
<th>Local Educational Agency (Charter Authorizer)</th>
<th>Charter School (CDS Code / Charter Number)</th>
<th>Address of Resource Center</th>
<th>School District(s) Where Resource Center is Located</th>
<th>Date Resource Center Was Established</th>
<th>Number of Students Attending Resource Center</th>
<th>Need for Waiver</th>
</tr>
</thead>
<tbody>
<tr>
<td>6-8-2017</td>
<td>Wiseburn Unified School District</td>
<td>RISE High (19 76869 0135988 / 1865)</td>
<td>2830 South Central Avenue, Los Angeles</td>
<td>Los Angeles Unified School District/ Los Angeles County Office of Education*</td>
<td>2017</td>
<td>80</td>
<td>Immediate closure would cause academic harm and disruption to students being served; employment hardship for the staff; and impact ability to meet financial obligations.</td>
</tr>
</tbody>
</table>

*The CDE is recommending that the charter school submit the transition plan to the county office of education, in addition to the authorizing school district and school district(s) identified where the resource center is located.

Created by the CDE, Charter Schools Division, October 2017
Outcome Rationale: The District seeks a waiver from the State Board of Education pursuant to Education Code Section 33050, which authorizes it to waive "all or part of any section of (the Education Code)." RISE Charter High School ("RISE") has been authorized by the District to operate an independent study charter school serving at-risk, foster, and homeless and other students with no fixed place of residence within the District, and other high-need communities within Los Angeles County, commencing with the 2017-18 school year. This innovative program aims to bring community resources, including social services, to the students from mobile vehicles and various community partners' locations which may change from time to time following students' needs -- literally. Because of the number of school districts in the County, it would be impractical for RISE to seek authorization to serve this relatively small and mobile population. With start-up funding of $10,000,000 from the XQ Prize, RISE will operate partially at non-fixed locations, as well as some fixed sites, located within the county in which it is authorized, but in some instances outside the geographic boundaries of the District. In October 2016, an appellate court ruled for the first time that charter locations outside the geographic boundaries of the authorizing school district violate the Charter Schools Act unless certain
exceptions apply. RISE's unique service model does not fit within any existing exceptions.

Student Population: 80

City Type: Urban

Public Hearing Date: 8/9/2017
Public Hearing Advertised: Posted online, physically at District Office, all four school sites and at neighborhood public library

Local Board Approval Date: 8/9/2017

Community Council Reviewed By: Advisory Committee of Wiseburn and Da Vinci Board Members, Administrators and Teachers
Community Council Reviewed Date: 7/7/2017
Community Council Objection: N
Community Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Tom Johnstone
Position: Superintendent
E-mail: tjohnstone@wiseburn.k12.ca.us
Telephone: 310-643-3024
Fax: 310-643-7659

Bargaining Unit Date: 08/02/2017
Name: Wiseburn Faculty Association
Representative: Liza Downer
Title: President
Position: Support
Comments:
The Wiseburn Unified School District ("District") held a public hearing and directed staff to request a waiver of part of the Education Code (provided below) to address the operations of RISE High Charter School ("RISE"). The District seeks a waiver from the State Board of Education pursuant to Education Code section 33050, which authorizes it to waive "all or part of any section of [the Education Code]."

RISE's unique program requires a different waiver of Education Code sections 47605 and 47605.1, as currently interpreted by the courts, than can be provided under State Board of Education Policy No. 17-01. RISE students are expected to be primarily homeless and out-of-school youth who are not currently being served by any public school. We urge the SBE to approve this waiver request, with an opportunity for renewal to make the waiver permanent, to ensure RISE can operate throughout Los Angeles County to serve these high-needs, vulnerable students.

**Background on RISE**

RISE is a nonclassroom-based charter school serving Grades 9-12, authorized by the Wiseburn Unified School District to commence operations for the 2017-18 school year. RISE will primarily serve homeless, foster youth, and other out-of-school youth. As a recipient of the prestigious XQ Prize, RISE will receive $10 million over five years to support the implementation of its innovative independent study program that is crafted specifically to serve this student population.

In addition to operating a facility in Wiseburn, RISE plans to serve students in co-located spaces with private nonprofit social services partners and "mobile resource vehicles", roving not only within the Wiseburn district, but in some instances Outside of the district and within Los Angeles County to come to the students where they are. RISE plans to employ these "mobile resource vehicles" in the near future—vehicles that will provide students access to instructional support, technology, and key, home-like amenities such as the use of showers and toiletries.
Starting on August 21, 2017, RISE will collaborate with A Place Called Home ("APCH"), a nonprofit organization dedicated to serving homeless youth, to serve students at APCH's existing facility at 2830 S Central Ave, Los Angeles, California 90011. This existing program facility is located in the geographic boundaries of the Los Angeles Unified School District. APCH will provide its valuable wraparound services to RISE students, such as medical and mental health care, legal services, and extracurricular activities. RISE students will have also access to instructional support and resources at the APCH facility, including access to technology to complete projects, special education services, and one-on-one tutoring and homework assistance.

We understand that the Anderson Union High School District v. Shasta Secondary Home School (2016) 4 Cal. App. 5th 262 (Shasta) decision interprets the Charter Schools Act to limit the ability of a nonclassroom-based charter school to operate outside of its authorizing district's boundaries but within its county. However, Shasta's application to RISE is uncertain as its partner APCH already has "established" and "operates" the program which RISE students will access. APCH will maintain control of its existing site and RISE students will come to APCH for self-directed educational purposes.

As it is unclear if Shasta applies to this circumstance, we are requesting this waiver to ensure RISE’s compliance, so it can serve students who will rely on the APCH location.

**RISE Needs a Waiver to Prevent Significant Harm to Vulnerable Students**

This waiver is necessary to ensure the success of approximately 80 RISE students who will rely on access to APCH for critical wraparound and instructional services. If these RISE students cannot access the APCH site, they would more than likely be forced to disenroll. This would be a devastating result for these students as many of them would not be enrolled in school at all if it wasn't for RISE.

SBE Policy No. 17-01 only considers temporary waivers for sites that existed prior to the Shasta decision. The policy sets forth guidelines for the SBE to consider in granting waivers but is not binding on SBE.

Under the terms of the XQ Prize, RISE needs to demonstrate that its model can operate for the five-year term of the grant award. Long-term certainty is needed to retain this crucial demonstration-of-concept support. RISE must show the XQ Institute that it can serve students beyond the five-year grant period.

RISE has considered whether seeking a countywide charter would obviate the need for a waiver. A countywide charter school still "operates at one or more sites" within the geographic boundaries of the county (Educ. Code, § 47605.6(a).) Given the uncertainty created by the Shasta decision, mobile resource vehicles or co-located spaces might not be considered "Sites" at which school operations could be conducted.

As an "XQ Super School", RISE's goal is to create a successful model that can be replicated by other schools and educators. SBE's approval of a waiver will not only benefit RISE's program and students, but potentially thousands of youth across the country.

The exclusive representatives of employees for collective bargaining did not participate in this request for waiver. No Wiseburn Unified School District employees are employed at the high school level.
SUBJECT


SUMMARY OF THE ISSUE(S)

The California Assessment of Student Performance and Progress (CAASPP) contract with Educational Testing Service (ETS), approved by the State Board of Education (SBE), specifies that on or before the annual November SBE meeting, the California Department of Education (CDE) shall present to the SBE a recommendation regarding the performance of ETS in complying with the terms and conditions of the contract for the prior-school-year test administration.

Per California Education Code (EC) Section 60643, the CDE must withhold 10 percent from progress payments invoiced for each component task. The CAASPP contract establishes the process and criteria by which the CDE recommends, and the SBE approves, the annual release of the 10 percent withheld from progress payments.

The completion criteria for the CAASPP contract component tasks are provided in Attachment 1, and the approved contract provisions regarding the annual determination of successful completion of component tasks are outlined in Attachment 2.

RECOMMENDATION

The CDE recommends releasing a total of $7,689,266.60 from funds withheld during the 2016–17 test administration. The CDE further recommends not releasing $170,000 to the contractor specific to component task 9. The amounts per task are listed in Attachment 3.

BRIEF HISTORY OF KEY ISSUES

The CDE has reviewed the performance of ETS in complying with the contract and determined that ETS has satisfactorily performed contract component tasks 1 through 8 for both the CAASPP computer-based assessments and the paper-pencil tests during
the 2016–17 test administration to date, pending completion of all contract requirements through December 2017. Therefore, the CDE is recommending approval of the 10 percent release for those tasks. The contract task descriptions are listed in Attachment 3.

However, in the CDE’s review of ETS’s compliance with contract component task 9, it was determined that ETS did not satisfactorily perform a portion of that contract component included in the outline below. The CDE and ETS have met to resolve errors in the 2016–17 test administration and ETS has put into action corrections that are intended to ensure success in the future.

**Task 9: Reporting**

The CDE recommends the release of $98,088.10 of the 10 percent withhold for task 9 related to reporting to local educational agencies (LEAs), performing secure file transfers protocols, and completing additional analyses.

The CDE also recommends the non-release of $170,000 of the 10 percent withhold for task 9, as related to the Smarter Balanced Summative Assessments, because ETS did not satisfactorily follow CDE-approved aggregation rules for the display of assessment data on the public CAASPP Results Web site and delivered a file with incomplete test administration window information for multitrack schools, as specified in the contract. Neither of these issues had an impact on the accuracy of individual student scores.

Details for each of the component tasks within Task 9 include:

**9.1. Reporting to Local Educational Agencies**

ETS satisfactorily implemented a comprehensive and secure online reporting system for interactive reporting at the LEA, school, and student levels. Although an error was identified on the Student Score Reports, ETS implemented a successful remediation plan and absorbed the costs of resolving the error.

**9.2. Reporting to the CDE—Public Reporting Web Site**

ETS satisfactorily designed, developed, and implemented the CDE’s public reporting Web site, complied with student privacy rules, provided summary data, and provided research files. However, ETS neglected to properly implement the CDE-approved aggregation rules when creating public reporting files. This error was corrected but, because the deliverable did not meet the specifications of the contract, the error is reflected in the non-release amount.

**9.3. Data Files**

ETS satisfactorily maintained a student database to house all student demographic data and assessment results. ETS made an error in the student data files delivered for state and federal accountability program calculations. This
error was also corrected but, because the deliverable did not meet the specifications of the contract, the error is reflected in the non-release amount.

9.4. Secure File Transfer System

ETS satisfactorily maintained secure file transfer protocol because of the confidential nature of student information and test results, meeting the requirements of this subtask.

9.5. Technical Report

ETS satisfactorily produced technical reports for each administered summative assessment, including pilot and field test assessments, meeting the requirements of this subtask.

9.6. Other Analyses or Reports

ETS was a responsive and beneficial partner with the CDE and SBE staff/liaisons in identifying and expanding on research questions, meeting the requirements of this subtask.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In July 2017, the SBE gave the CDE the authority to begin the process of approving a renewal of ETS’s administration contract for an additional two years (https://www.cde.ca.gov/be/ag/ag/yr17/documents/jul17item04.doc).

In May 2017, the SBE approved the proposed contract amendment with ETS for the CAASPP contract (https://www.cde.ca.gov/be/ag/ag/yr17/documents/may17item02.doc).

In March 2017, the SBE gave the CDE the authority to begin negotiations with ETS to amend the existing Scope of Work for the CAASPP contract (https://www.cde.ca.gov/be/ag/ag/yr17/documents/mar17item06.doc).

FISCAL ANALYSIS (AS APPROPRIATE)

The funds to be released were withheld during 2016–17 from invoices paid with existing CAASPP System contract funding, shown in Attachment 3. The CDE recommends the release of $7,689,266.60. The CDE recommends not releasing $170,000 specific to task 9. Any portion of the funds withheld during 2016–17 will revert back to the state General Fund and cannot be used for any other purpose. The reversion date for fiscal year 2016–17 funding is June 30, 2019. The amounts per task are listed in Attachment 3.
ATTACHMENT(S)

Attachment 1: California Assessment of Student Performance and Progress Completion Criteria (3 Pages)

Attachment 2: California Assessment of Student Performance and Progress Process for Determination of Successful Completion of Component Tasks (2 Pages)

Attachment 3: California Assessment of Student Performance and Progress Contract 2016–17 Test Administration Component Task Budget (1 Page)
California Assessment of Student Performance and Progress
Completion Criteria

The criteria by which the California Department of Education (CDE) will recommend and the State Board of Education (SBE) will determine the successful completion of each separate and distinct component task for payment of the final 10 percent is set forth in the following table for each test administration covered in Exhibit A, Scope of Work (SOW) of the Agreement.

If it is determined by the CDE that a certified deliverable submitted to the CDE by the contractor does not meet all of the criteria in Exhibit E, the CDE reserves the right to use this information as part of the criteria by which the CDE will recommend, and the SBE will determine, successful completion of each separate and distinct component task for payment of the final 10 percent for each applicable test administration as set forth in the California Assessment of Student Performance and Progress (CAASPP) completion criteria shown in the following table:

### Criteria for Successful Completion of Component Tasks

<table>
<thead>
<tr>
<th>Component Task</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Task 1  Comprehensive Plan...</strong></td>
<td>• The contractor provided all reports, plans, and schedules required in the task as specified in the SOW.</td>
</tr>
<tr>
<td></td>
<td>• All materials, documents, and/or deliverables developed in conjunction with this contract were submitted to the CDE for approval.</td>
</tr>
<tr>
<td></td>
<td>• The contractor provided the local educational agency (LEA) coordinators with all data, forms, and agreements as outlined in the SOW.</td>
</tr>
<tr>
<td></td>
<td>• The contractor provided and maintained a secure Web-based CAASPP administration management system as specified in the SOW.</td>
</tr>
<tr>
<td></td>
<td>• The contractor delivered all electronic data files and documentation as specified in the SOW.</td>
</tr>
<tr>
<td><strong>Task 2  Program Support...</strong></td>
<td>• The contractor provided all trainings, focus groups, workshops, and Webcasts as specified in the SOW.</td>
</tr>
<tr>
<td></td>
<td>• The California Technical Assistance Center provided assistance to LEAs as specified, and within the response times specified, in the SOW.</td>
</tr>
<tr>
<td></td>
<td>• The CDE received electronic files and other reports as specified in the SOW.</td>
</tr>
<tr>
<td>Component Task</td>
<td>Criteria</td>
</tr>
<tr>
<td>------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Task 3  Technology Services</td>
<td>• The Assessment Delivery System meets all system requirements as specified in the SOW.</td>
</tr>
<tr>
<td></td>
<td>• The contractor provided a single sign-on as detailed in the SOW.</td>
</tr>
<tr>
<td></td>
<td>• Contractor provided and maintained a Project Management Plan as detailed in the SOW.</td>
</tr>
<tr>
<td></td>
<td>• The Assessment Delivery System supported up to 500,000 concurrent users as specified in the SOW.</td>
</tr>
<tr>
<td></td>
<td>• The Assessment Delivery system supported at least 99.982 percent availability as specified in the SOW.</td>
</tr>
<tr>
<td>Task 4  Test Security</td>
<td>• All test items, test materials, electronic files, and data (including student-identifiable data) were developed, used, transferred, delivered, and maintained in a secure manner as specified in the SOW.</td>
</tr>
<tr>
<td></td>
<td>• The contractor completed all monitoring (including, but not limited to, on-site visits, social media monitoring, and inventorying of materials) of schools before, during, and after testing as specified in the SOW.</td>
</tr>
<tr>
<td></td>
<td>• The contractor conducted security breach investigations as specified in the SOW.</td>
</tr>
<tr>
<td></td>
<td>• The contractor provided the CDE with summary reports of the results of each security breach investigation.</td>
</tr>
<tr>
<td>Task 5  Accessibility and</td>
<td>• The contractor provided all universal tools, designated supports, and accommodations as required in the SOW.</td>
</tr>
<tr>
<td>Accommodations</td>
<td>• All items developed (as specified in Task 6) include all the embedded accessibility supports and functionality and render within the test delivery system as specified in the SOW.</td>
</tr>
<tr>
<td>Task 6  Assessment Development</td>
<td>• The contractor developed for all grades and subjects the number and types of items specified in the SOW.</td>
</tr>
<tr>
<td></td>
<td>• The contractor pilot tested or field-tested the minimum required number of items as specified in the SOW.</td>
</tr>
<tr>
<td></td>
<td>• The contractor provided blueprints for new assessments as specified in the SOW.</td>
</tr>
<tr>
<td></td>
<td>• A review of the scaling and equating processes showed items to meet or exceed industry standard.</td>
</tr>
<tr>
<td></td>
<td>• The performance level settings generated results for all content areas, and performance levels were reported to LEAs and the CDE.</td>
</tr>
<tr>
<td>Component Task</td>
<td>Criteria</td>
</tr>
<tr>
<td>------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| Task 7  Test Administration | • All test materials required in the SOW were produced on time and in sufficient quantities.  
• All test materials were delivered to and retrieved from LEAs as specified in the SOW.  
• The contractor hosted the Assessment Delivery System as specified in the SOW.  
• The hosting systems (Test Operations Management System; Appeals, and Assessment Delivery System) were operational and functioned as specified in the SOW, including the authentication of users.  
• Smarter Balanced Interim Assessments were hosted and scoring was provided as specified in the SOW. |
| Task 8  Scoring and Analysis | • All tests were correctly processed and scored within timelines specified in the SOW.  
• All data analyses were completed as specified in the SOW.  
• The contractor delivered all electronic data files and documentation as specified in the SOW. |
| Task 9  Reporting       | • The contractor provided accurate and complete reports of test results to LEAs that met all reporting requirements as specified in the SOW.  
• The contractor provided accurate and complete reports of test results for the public reporting Web site that met all reporting requirements as specified in the SOW.  
• The contractor met all reporting requirements to the CDE as specified in the SOW.  
• The annual technical reports were received by the CDE as specified in the SOW. |
California Assessment of Student Performance and Progress
Process for Determination of Successful Completion of Component Tasks

California Education Code (EC) Section 60643 requires the following:

- The California Department of Education (CDE) is to withhold no less than 10 percent of the amount budgeted for each separate and distinct component task provided for in the California Assessment of Student Performance and Progress (CAASPP) contract pending final completion of all component tasks.

- The CAASPP contract is to establish the process and criteria by which the successful completion of each component task will be recommended by the CDE and approved by the State Board of Education (SBE).

The approved CAASPP contract is the result of a collaborative process involving SBE staff, the CDE, and Educational Testing Service. It includes the following contract provisions regarding the annual determination of successful completion of component tasks:

CN150012, Exhibit B, Section IX, Process for Release and Payment of Withhold:

Pursuant to EC 60643, the following establishes the process and criteria by which the successful completion of each component task shall be recommended by the CDE and approved by the SBE.

A. Process

1. SBE Determination: During the term of the Agreement, based on the criteria set forth below, the SBE will determine at its November Board Meeting, or the next meeting thereafter if a November meeting is not held, whether the contractor has successfully completed each component task for the prior fiscal year. If the SBE determines the contractor has not successfully completed each component task for the prior fiscal year, it shall, within 10 days of its determination, notify the contractor and the CDE in writing which component tasks the SBE has determined that the contractor has failed to successfully complete. The contractor shall have 10 days from receipt of the notice to respond in writing, and the response shall be promptly delivered to the CDE Contract Monitor.

At the following SBE meeting, the CDE and the contractor will have an opportunity to discuss the issues before the SBE. The SBE will, at the same meeting, make its final determination, based on the criteria set forth below, as to whether the contractor has successfully completed each task or component of a task for the prior fiscal year and releases the withholding for those component tasks.
2. Release: Once the SBE has determined that the contractor has successfully completed a component task, the 10 percent withheld from invoices for the component task for the prior fiscal year may be released by the CDE. The contractor must submit an invoice to CDE for the withheld amounts for each component task which SBE authorized release. The contractor must identify the prior invoice from which the money was withheld and the applicable component task in its invoice for the released withholding.

B. Criteria: The criteria by which CDE will recommend and the SBE will determine successful completion of each component task for payment of the final 10 percent will be set forth in Exhibit E.
California Assessment of Student Performance and Progress Contract  
2016–17 Test Administration Component Task Budget

The California Department of Education recommends releasing a total of $7,689,266.60 to Educational Testing Service from funds withheld during the 2016–17 California Assessment of Student Performance and Progress (CAASPP) test administration.

<table>
<thead>
<tr>
<th>Component Task Scope of Work A</th>
<th>Total 2016–17 Test Administration Budget</th>
<th>Amount Paid/To Be Paid from Progress Payments*</th>
<th>10 Percent Withheld (Pending Release)</th>
<th>Recommended (Release)</th>
<th>Recommended Withhold (Non-Release)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 1: Comprehensive Plan and Schedule of Deliverables</td>
<td>$4,799,100</td>
<td>$4,319,190.00</td>
<td>$479,910.00</td>
<td>$479,910.00</td>
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<tr>
<td>Task 2: Program Support Services</td>
<td>$7,892,150</td>
<td>$7,102,935</td>
<td>$789,215.00</td>
<td>$789,215.00</td>
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<tr>
<td>Task 3: Technology Services</td>
<td>$4,701,024</td>
<td>$4,230,921.60</td>
<td>$470,102.40</td>
<td>$470,102.40</td>
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</tr>
<tr>
<td>Task 4: Test Security</td>
<td>$100,577</td>
<td>$90,519.30</td>
<td>$10,057.70</td>
<td>$10,057.70</td>
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<tr>
<td>Task 5: Accessibility and Accommodations</td>
<td>$100,491</td>
<td>$90,441.90</td>
<td>$10,049.10</td>
<td>$10,049.10</td>
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<tr>
<td>Task 6: Assessment Development</td>
<td>$8,519,029</td>
<td>$7,667,126.10</td>
<td>$851,902.90</td>
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<tr>
<td>Task 7: Test Administration</td>
<td>$28,719,157</td>
<td>$25,847,241.30</td>
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<td>$2,871,915.70</td>
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<tr>
<td>Task 8: Scoring and Analysis</td>
<td>$21,080,257</td>
<td>$18,972,231.30</td>
<td>$2,108,025.70</td>
<td>$2,108,025.70</td>
<td></td>
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<tr>
<td>Task 9: Reporting</td>
<td>$2,680,881</td>
<td>$2,412,792.90</td>
<td>$268,088.10</td>
<td>$98,088.10</td>
<td>$170,000</td>
</tr>
<tr>
<td>Totals:</td>
<td>$78,592,666</td>
<td>$70,733,399.40</td>
<td>$7,859,266.60</td>
<td>$7,689,266.60</td>
<td>$170,000</td>
</tr>
</tbody>
</table>

*Pending completion of all contract component tasks for the 2016–17 CAASPP test administration through December 2017.
California Assessment of Student Performance and Progress: Approve Commencement of a Second 15-Day Public Comment Period for Proposed Amendments to California Code of Regulations, Title 5, Sections 850 through 859.

SUMMARY OF THE ISSUE(S)

The California Department of Education (CDE) is responsible for the oversight of the California Assessment of Student Performance and Progress (CAASPP) System, which is governed by the California Education Code (EC) sections 60640 through 60649. The CAASPP System is to be used for the assessment of eligible elementary and secondary pupils, replacing the former Standardized Testing and Reporting (STAR) Program.

Following the completion of the second operational administration of the CAASPP System, the CDE identified urgent changes required to the CAASPP regulations in order to improve the test administration process for the third operational year, 2016–17. Subsequently, emergency regulations to make a few critical amendments were approved by the State Board of Education (SBE) at its January 2017 meeting, which were approved by the Office of Administrative Law (OAL) and became effective on February 7, 2017. The emergency regulations were set to expire on August 2, 2017.

In the meantime, additional significant changes were also needed to be made due to recommendations from the Smarter Balanced Assessment Consortium (Consortium), and to add policies and procedures required in preparation for the addition of three new tests to the CAASPP System: the California Science Test (CAST), the California Alternate Assessment for Science (CAA for Science), and the California Spanish Assessment (CSA). A permanent rulemaking package for the CAASPP regulations was approved by the SBE at its March 2017 meeting and the permanent rulemaking process for the amended regulations commenced on March 25, 2017.

A 45-day public comment period commenced and a public hearing was held on May 8, 2017. There were no attendees at the public hearing, although written comments were received from one individual. The comments and the CDE’s responses thereto were presented in a Final Statement of Reasons at the July 2017 SBE meeting. In addition, proposed changes to the CAASPP permanent regulations were presented and approved and the SBE directed that the changes be circulated for a 15-day comment period.
period, which took place from July 14, 2017 to July 29, 2017. No comments to the proposed amendments were received. [In the interim, at the May 2017 SBE meeting, the SBE approved the re-adoption of the emergency CAASPP regulations so that these regulations would not expire on August 2, 2017 while the permanent rulemaking package was in the process of being completed and submitted to the OAL. The re-adoption of the emergency regulations was approved by OAL effective August 1, 2017.]

Following the 15-day comment period, no comments having been received, the CDE submitted the permanent rulemaking package to the OAL for approval. As part of the approval process, OAL is required by its governing statutes to determine whether the proposed regulations meet standards for necessity and clarity. In making these determinations, OAL reviews the rulemaking package, including the various notices, Statements of Initial and Final Reasons, and text of the proposed regulations. OAL examines the documentation to determine whether the documentation sufficiently states why each provision of the proposed regulations is required and accurately describes the proposed regulations. OAL also determines whether the proposed regulations are readily understandable. [Pending OAL’s review, the SBE approved a second re-adoption of the emergency regulations at its September 2017 meeting, which is awaiting OAL’s approval.]

OAL did not approve the proposed CAASPP regulations due to concerns regarding issues related to the necessity and clarity standards. The CDE withdrew the rulemaking package in order to address OAL’s concerns by supplementing its Statement of Reasons, to make a small number of clarifying changes in the regulations, including modifying some statutory citations and referencing in an Addendum to the Final Statement of Reasons, and adding two documents that were also relied upon in drafting the regulations. The withdrawal of the rulemaking package allows the SBE to approve the commencement of a second 15-day public comment period to circulate a few clarifying changes to the regulations.

**RECOMMENDATION**

The CDE recommends the SBE take the following actions:

- Approve the proposed changes to the proposed regulations
- Direct that the proposed changes be circulated for a second 15-day public comment period in accordance with the Administrative Procedure Act
- If no relevant comments to the proposed changes are received during the second 15-day public comment period, the proposed regulations with changes are deemed adopted, and the CDE is directed to complete the rulemaking package and submit it to the OAL for approval
- If any relevant comments to the proposed changes are received during the second 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE’s January 2018 meeting agenda for action
• Authorize the CDE to take any necessary action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file

BRIEF HISTORY OF KEY ISSUES

For a number of years, California implemented a statewide testing program as required by federal law through the STAR Program. On October 2, 2013, Governor Brown signed Assembly Bill 484 deleting the provisions of the EC referencing the STAR Program and established the CAASPP System.

Pursuant to EC Section 60640(q), California Code of Regulations, Title 5, Sections 850 to 868 were revised by the SBE to conform to the statutory changes made in AB 484. These amendments revised definitions, requirements, responsibilities and guidelines for the administration, test security, reporting and apportionment related to the CAASPP System. The amendments were adopted initially as emergency regulations and later adopted by the OAL as permanent regulations on August 27, 2014.

Under these newly-adopted regulations, the English language arts/literacy (ELA) and mathematics operational assessments took place beginning in March of 2015 through July 31, 2015, and included the new computer-based assessments provided by the Consortium. The CDE, at the direction of the SBE and in collaboration with its CAASPP testing contractor, conducted evaluations of the first operational CAASPP test administration and identified required amendments to be made to the regulations for the second operational administration, including the addition of accessibility supports in alignment with Consortium policy, the addition of a testing window for the new CAAs for ELA and mathematics, clarifications to language needed for the new online tests (not necessary for the paper-pencil tests), and minor format and language clarifications. These amendments were adopted by the OAL on an emergency basis to allow for the timely preparation and administration of the second operational administration of the CAASPP assessments; they were also adopted through the regular rulemaking process and approved by OAL on May 18, 2016. The CDE successfully administered the 2015–16 administration of the online CAASPP assessments March 10, 2016 through July 31, 2016.

The emergency regulations currently adopted were in place for the third operational year of assessments for 2016–17. As preparations for the fourth operational administration of the CAASPP assessments are under way for the 2017–18 school year and California prepares to substitute three new tests, the CAST, the CAA for Science, and the CSA, for tests aligned to former state-adopted standards, the regulations must be revised to add the necessary procedures and accessibility supports for these assessments; to update the list of existing accessibility supports to conform to changes in Consortium policy; to reorganize some sections for clarity and ease of use; and to add and revise definitions and terms to accommodate improvements in test administration procedures and reporting.
SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its September 2017 meeting, the SBE approved the second re-adoption of the Finding of Emergency and Proposed Emergency Regulations for Amendments to the California Code of Regulations, Title 5, Sections 851 through 856 http://www.cde.ca.gov/be/ag/ag/yr17/agenda201709.asp.

At its July 2017 meeting, the SBE approved of the changes to the CAASPP regulations and asked that the changes to the regulations be circulated for a 15-day comment period. http://www.cde.ca.gov/be/ag/ag/yr17/agenda201707.asp.

At its May 2017 meeting, the SBE approved re-adoption of the Finding of Emergency and Proposed Emergency Regulations for Amendments to the California Code of Regulations, Title 5, Sections 851 through 856 http://www.cde.ca.gov/be/ag/ag/yr17/documents/may17item05.doc.

At its March 2017 meeting, the SBE approved commencement of permanent rulemaking for the proposed amendments to the CAASPP regulations http://www.cde.ca.gov/be/ag/ag/yr17/documents/mar17item10.doc.

At its January 2017 meeting, the SBE approved the Finding of Emergency and Emergency Regulations to allow the timely preparations for the administration and reporting of the spring 2017 CAASPP administration http://www.cde.ca.gov/be/ag/ag/yr17/documents/jan17item08a4.pdf.

At its May 2016 meeting, the SBE approved the revised Finding of Emergency and approved re-adoption of the Emergency CAASPP regulations so that the CAASPP regulations would continue to be in place pending OAL’s approval of the revised permanent regulations http://www.cde.ca.gov/be/ag/ag/yr17/documents/mar17item10.doc.

At its March 2016 SBE meeting, the SBE approved changes to the proposed permanent regulations and directed that the amended regulations be circulated for a 15-day public comment period, March 10–25, 2016, and directed the CDE, assuming no relevant comments to the proposed changes were received, to deem the proposed permanent regulations adopted (no relevant comments were received and the revised permanent regulations were approved by the OAL on May 16, 2016) http://www.cde.ca.gov/be/ag/ag/yr16/documents/mar16item04.doc.

At its November 2015 meeting, the SBE adopted the proposed amendments to the CAASPP regulations as emergency regulations. The emergency regulations were approved by the OAL and became effective on November 23, 2015. Additionally, the SBE approved commencement of the regular rulemaking process for permanent amendments to the CAASPP regulations http://www.cde.ca.gov/be/ag/ag/yr15/documents/nov15item05-revised.doc http://www.cde.ca.gov/be/ag/ag/yr15/documents/nov15item06-revised.doc.
At its July 2014 meeting, the SBE readopted the emergency regulations for CAASPP. The emergency re-adoption rulemaking file was submitted to the OAL on July 16, 2014. The re-adoption of the emergency regulations was approved by the OAL on July 23, 2014. Additionally, the SBE adopted the permanent rulemaking file at its July 2014 meeting. The rulemaking file was submitted to the OAL on July 16, 2014, and permanent regulations for CAASPP were approved and became effective on August 27, 2014.

http://www.cde.ca.gov/be/ag/ag/yr14/documents/jul14item08.doc

At its January 2014 meeting, the SBE, for the first-time, adopted proposed emergency regulations for CAASPP. The emergency regulations were approved by the OAL and became effective on February 3, 2014. Additionally, the SBE approved commencement of the regular rulemaking process for the permanent regulations

http://www.cde.ca.gov/be/ag/ag/yr14/documents/jan14item06.doc
http://www.cde.ca.gov/be/ag/ag/yr14/documents/jan14item05.doc.

FISCAL ANALYSIS (AS APPROPRIATE)

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

ATTACHMENT(S)

Attachment 1: 15-Day Notice of Modifications (1 pages)
Attachment 2: Proposed Regulations (37 pages)
Attachment 3: Addendum to the Final Statement of Reasons (2 pages)
Attachment 4: Supplemental Statement of Reasons (2 pages)
Attachment 5: Economic and Fiscal Impact Statement (STD 399) (5 pages)
SECOND 15-DAY NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED
REGULATIONS REGARDING PROCEDURES FOR THE CALIFORNIA
ASSESSMENT OF STUDENT PERFORMANCE AND PROGRESS

November 13, 2017

Pursuant to the requirements of Government Code section 11346.8(c), and California Code of Regulations, title 1, section 44, the State Board of Education (SBE) is providing notice of changes made to the above-referenced proposed regulation text which was the subject of a regulatory hearing on May 8, 2017.

Changes to the text:

If you have any comments regarding the proposed changes that are the topic of this second 15-Day Notice, the SBE will accept written comments between November 13, 2017 and November 28, 2017, inclusive. All written comments must be submitted to the Regulations Coordinator via facsimile at 916-319-0155; email at regcomments@cde.ca.gov or mailed and received at the following address by close of business at 5:00 p.m. on November 28, 2017, and addressed to:

Patricia Alverson, Regulations Coordinator
Legal, Audits and Compliance Branch
Administrative Supports and Regulations Adoption Unit
California Department of Education
1430 N Street, Suite 5319
Sacramento, CA 95814

All written comments received by 5:00 p.m. on November 28, 2017, which pertain to the indicated changes will be reviewed and responded to by California Department of Education (CDE) staff as part of the compilation of the rulemaking file. Written comments received by the CDE staff during the public comment period are subject to viewing under the Public Records Act.

Please note: Any written comments are to be restricted to the recent modifications as shown in the enclosed language. The SBE is not required to respond to comments received in response to this notice on other aspects of the proposed regulation.
Title 5. EDUCATION

Division 1. California Department of Education

Chapter 2. Pupils

Subchapter 3.75. California Assessment of Student Performance and Progress (CAASPP)

Article 1. General

§ 850. Definitions.

For the purposes of these regulations, the following terms shall have the following meanings:

(a) “Accommodations” means resources documented in a pupil's individualized education program (IEP) or Section 504 Plan which the pupil regularly uses in the classroom for instruction and/or assessments(s) and that are either utilized in the assessment environment or consist of changes in procedures or materials that increase equitable access during the assessment. Accommodations cannot fundamentally alter the comparability of achievement test scores.

(b) “Achievement tests” means any summative standardized test that measures the level of performance that a pupil has achieved on state-adopted content standards.

(c) “Adaptive engine” refers to the mechanism utilized in a computer-adaptive assessment that selects the difficulty of grade-level test questions throughout an assessment based on student responses.

(d) “Alternate assessments” means any CAASPP achievement assessments as provided in Education Code section 60640(k) and the test materials developed to measure the level of performance for pupils with the most significant cognitive disabilities who are unable to take the consortium summative assessments in English language arts (ELA) and mathematics pursuant to Education Code section 60640(b)(1)
or are unable to take an assessment of science pursuant to Education Code section 60640(b)(2), even with resources.

(e) "Assessment management system" means the test operations management system which is a set of web applications that manage the registration of pupils for tests, machine or hand scoring of test items, integration of item scores into an overall test score, and delivery of scores to the data warehouse.

(f) "Assessment technology platform" means the underlying computer systems on which CAASPP applications run. It is comprised of two components, the assessment management system and the test delivery system.

(g) "California Alternate Assessments (CAAs)" are the alternate assessments and corresponding test materials in ELA, mathematics, and science as provided for in Education Code section 60640(k) for pupils with the most significant cognitive disabilities. The CAAs are the successor alternate assessments for ELA, mathematics, and science as identified in Education Code section 60640(b)(3).

(h) "California Alternate Performance Assessment for Science (CAPA Science)" is the alternate assessment and corresponding test materials for science as provided for in Education Code section 60640(k) for pupils with significant cognitive disabilities.

(i) "California Modified Assessment for Science (CMA Science)" is the alternate assessment and corresponding test materials for science based on modified achievement standards.

(j) "California Standards Test for Science (CST Science)" is the assessment and corresponding test materials for science that measure the degree to which pupils are achieving the state content standards in science pursuant to Education Code section 60605.

(k) "California Spanish Assessment (CSA)" is the primary language assessment and corresponding test materials in Spanish for Reading Language Arts/Literacy that will replace the Standards-based Tests in Spanish (STS). When operational, the CSA will be the successor to the STS pursuant to Education Code section 60640(b)(5)(A) and (j).

(i) "California Science Test (CAST)" is the assessment and corresponding test materials for science pursuant to Education Code section 60640(b)(2)(B) that measures
the degree to which pupils are achieving the state-adopted standards in science pursuant to former Education Code section 60605.85.

(f)(j) “Change of construct” means a modification of the concept or skills being tested that fundamentally alters the meaning and comparability of achievement test scores.

(m)(k) “Data Warehouse” means a comprehensive storehouse of test registrations and results and a system to generate reports on, or extracts of, that data.

(n)(l) “Designated supports” are resources which the pupil regularly uses in the classroom for instruction and/or assessment(s) and that are available for use by any pupil for whom the need has been indicated, prior to the assessment administration, by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or specified in the pupil's IEP or Section 504 Plan.

(o)(m) “Embedded” means a resource, whether a universal tool, designated support, or accommodation, that is part of the test delivery system for the computer-based CAASPP tests.

(n) “Expandable passages/items” are embedded accessibility resources that allow the passage or item to take up a larger portion of the computer screen.

(p)(n)(o) “Instructional supports” are all supports, including those supports documented in a pupil's IEP or Section 504 Plan, that may be used in daily instruction and for assessment(s), including language and physical supports.

(e)(p) “Local educational agency (LEA)” means a county office of education, school district, state special school, or direct-funded charter school as described in Education Code section 47651. LEA superintendent, for purposes of these regulations, includes an administrator of a direct-funded charter school.

(p)(q) “Non-embedded” means a resource, whether a universal tool, designated support, or accommodation, that may be provided by the LEA and is not part of the test delivery system for the computer-based CAASPP tests.

(q)(r) “Nonpublic schools (NPS)” are nonpublic, nonsectarian schools as set forth in Education Code section 56034.

(s)(r) “Operational” means a test administration that produces valid and reliable results which are used for public reporting purposes and for which pupil score reports are required to be issued, pursuant to Education Code sections 60640 and 60641.
Operational tests do not include tests still under development, such as pilot or field tests.

(t)(s)(t) “Primary language testassessment” means a test as provided in Education Code section 60640(b) and (j) and its corresponding test materials in each primary language for which a test is available. The primary language test is the Standards-based Test(s) in Spanish (STS) is the primary language assessment, until a successor the CSA test becomes available operational. The accessibility supports designated in section 854.4 do not apply to the STS.

(u)(t)(u) “Pupil” refers to a student enrolled in a California public school.

(u)(v) “Pupils with the most significant cognitive disabilities” means pupils with a disability or disabilities as defined under section 602(3) of the Individuals with Disabilities Education Act (IDEA) title 20 United States Code section 1401(3) that significantly impact(s) cognitive functioning and adaptive behavior and who require extensive, direct individualized instruction and substantial supports to achieve measurement on academic standards, provided that:

(1) The identification of a pupil as having a particular disability as defined in IDEA shall not determine whether or not a pupil is a pupil with the most significant cognitive disabilities; and

(2) A pupil with the most significant cognitive disabilities must not be identified as such based solely on the pupil's previous low academic achievement or the pupil's previous need for accommodations to participate in general statewide or local assessments.

(3) For purposes of this definition, “adaptive behavior” means behavior essential for someone to live independently and to function safely across three domains of daily life skills: conceptual (e.g., language, functional academics, self-direction, money management, and time concepts); social (e.g., interpersonal skills, responsibility, self-esteem, wariness/naïveté, follow rules, etiquette, and social problem solving); and practical (e.g., activities of daily living, occupational skills, safety, healthcare, and travel).

(v)(w) “Recently arrived English learner” means a pupil designated as an English Learner (EL) who is in his or her first 12 months of attending a school in the United States.
States as specified in Education Code section 60603(v), as determined on or after April 15th of the previous school year.

(w)(x) “Registration system” means the mechanism that provides administrators with the tools to manage users and pupils participating in CAASPP computer-based assessments. The system uses a role-specific design to restrict access to certain tasks based on the user's designated role as well as manage pupils' default test settings, designated supports, and accommodations.

(x)(y) “Resource(s)” refers to a universal tool, designated support, accommodation or an unlisted resource approved pursuant to section 853.8854.9. Resources (including approved unlisted resources) do not change the construct of the assessment.

(y)(z) “Scribe” is an employee of the LEA or a person assigned by an NPS to implement a pupil's IEP who has signed a CAASPP Test Security Affidavit and has received training to transcribe a pupil's responses to the format required by the test. A pupil's parent, guardian, or sibling is not eligible to be the pupil's scribe.

(z)(aa) “Significant medical emergency” is a significant injury, trauma, or illness (mental or physical) that precludes a pupil from taking the achievement tests. An injury, trauma, or illness is significant if the pupil has been determined by a licensed physician to be unable to participate in the tests.

(aa)(ab) “Standards-based Tests in Spanish (STS)” are the achievement tests and its corresponding test materials that are administered at the option of the LEA as the primary language test assessment as provided in Education Code sections 60640(b) and (j).

(ab)(ac) “Streamlining” means an accommodation on a computer-based assessment that provides an alternate display of an item, stacked into instructions, stimuli, and response choices.

(ac)(ad) “Test Administration Manuals (TAM)” means the instructions provided by the CAASPP contractor or consortium for the purpose of training and administration of the respective CAASPP tests and which must be adhered to in order to ensure the security of valid and reliable tests and the reporting of accurate results.
“Test administrator” is an employee or contractor of an LEA or an NPS who has signed a CAASPP Test Security Affidavit and has received training to administer the CAASPP achievement tests.

“Test delivery system” consists of the electronic systems used to display test items through an adaptive engine; accept and store item responses; score items; and restrict access to outside sources. The test delivery system includes technology required to administer computer-based tests.

“Test examiner” is an employee or contractor of an LEA or an NPS who has signed a CAASPP Test Security Affidavit and has received training to administer the CAA tests. A test examiner must be a certificated or licensed LEA staff member.

“Test proctor” is an employee of an LEA, or a person assigned by an NPS, to implement a pupil's IEP or Section 504 Plan, who has signed a CAASPP Test Security Affidavit and has received training designed to prepare him or her to assist the test examiner in the administration of tests.

“Track” is a type of attendance or instructional schedule for schools with year-round education programs pursuant to Education Code section 37670.

“Translator” is a person who has been assigned to translate the test directions into the pupil's primary language pursuant to section 853.6854.5, who has signed a CAASPP Test Security Affidavit as identified in section 859(d), and who has received training specifically designed to prepare him or her to assist the test administrator or test examiner in the administration of the assessments pursuant to Education Code section 60640. A pupil's parent, guardian, or sibling is not eligible to be the pupil's translator. A translator must be:

(1) an employee of an LEA;
(2) an employee of the NPS; or
(3) a person supervised by an employee of an LEA or an employee of the NPS.

“Universal tools” are resources of the CAASPP tests that are available to all pupils.
Unlisted resource(s) means an instructional support that a pupil regularly uses in daily instruction and/or assessment that has not been previously identified as a universal tool, designated support or accommodation. Because an unlisted resource has not been previously identified as a universal tool, designated support or accommodation, it may or may not change the construct of the assessment.

NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 306, 37670, 47605, 47605.8, 47651, 56034, 60603, 60604, 60605, 60615, 60640, 60641, 60642.5 and 60642.6, Education Code; 5 CCR 11967.6; 20 U.S.C. 1401(3) and 6311(b)(1)(E); and 34 C.F.R. Sections 200.1(d) 200.1(e), 200.1(f) and 300.160.; and 5 CCR 11967.6.

Article 2. Achievement Tests and Any Primary Language Test Assessment

§ 851. Pupil Testing
(a) With the exception of pupils exempt pursuant to section 852, LEAs shall administer the achievement tests, and may administer the primary language test assessment, to each eligible pupil as defined in section 851.5 who is enrolled in an LEA during the school's or track's selected testing period (excluding any extension period pursuant to section 855(b)(4)).
(b) The testing conducted shall be consistent with the pupil's grade of enrollment as noted in CALPADS on the first day that the pupil started testing in any component of the achievement test. Testing shall be conducted within of the school's or track's available testing window pursuant to section 855.
(c) No later than start of the 2014-2015 school year, for the purposes of the CAASPP assessment system, a charter school which is not an LEA as defined in Education Code section 60603(o) shall test with, dependent on, the LEA that granted the charter or was designated the oversight agency by the State Board of Education (SBE).
(d) LEAs shall make arrangements for the testing of all eligible pupils in alternative education programs or programs conducted off campus, including, but not limited to, non-classroom based programs, continuation schools, independent study, community day schools, county community schools, juvenile court schools, or NPSs.
(e) No test may be administered in a home or hospital except by a test administrator or test examiner. No test shall be administered to a pupil by the parent, guardian, or sibling of that pupil. This subdivision does not prevent classroom aides from assisting in the administration of the test under the supervision of a test administrator or test examiner, provided that the classroom aide does not assist his or her own child, and that the classroom aide signs a CAASPP Test Security Affidavit.


§ 851.5. Eligible Pupil

For purposes of these regulations, an "eligible pupil" is as follows:

(a) For CAASPP achievement tests in ELA, a pupil in grades 3 through 8 and grade 11 who is not taking the CAA or is not a recently arrived EL pursuant to section 850(v). However, a recently arrived EL may be an eligible pupil upon request by the parent/guardian.

(b) For CAASPP achievement tests in mathematics, a pupil in grades 3 through 8 and grade 11 who is not taking the CAA.

(d) For the CAAs for ELA and mathematics, a pupil in grades 3 through 8 and grade 11 who has an IEP that designates the use of alternate assessments.

(g) For the CSTCAST Science, a pupil in grades 5, 8 and any one grade of 10, 11, or 12 in which a pupil is receiving science instruction, who:

(1) has not previously completed a CAASPP high school achievement test for science; and

(2) does not have an IEP that designates the use of an alternate or modified assessment in science.

(e) For the CAA for Science, a pupil in grades, 5, 8 and any one grade of 10, 11, or 12 in which a pupil is receiving science instruction, who:

(1) has not previously completed a CAASPP high school achievement test for science; and

(2) who has an IEP that designates the use of an alternate assessments.
(f) For the CMA Science, a pupil in grades 5, 8 and 10 who has an IEP that
designates the use of the modified assessment in science.

(f) For the Primary Language Assessment (PLA), a pupil in grades 3 through 8 and
high school:
   (1) who is receiving instruction in the language of the assessment; and/or
   (2) who is seeking a measure of his or her primary language achievement (reading,
writing, and listening).

(e)(g) For the STS, a pupil in grades 3, 8 and 11:
   (1) whose primary language is Spanish and who is receiving instruction in
Spanish; or
   (2) who is enrolled in a dual language immersion program that includes
Spanish; or
   (3) who is a recently arrived EL and whose primary language is Spanish.

(h) Pupil score reports will be provided for all eligible pupils who are tested.

§ 853. Administration

(a) The CAASPP tests pursuant to Education Code section 60640 shall be
administered, scored, transmitted, and/or returned by LEAs in accordance with the
corresponding TAMs or other instructions provided by the contractor or the California
Department of Education (CDE) for administering, scoring, transmitting, and/or returning
the tests, unless specifically provided otherwise in this subchapter, including instructions
for administering the test with universal tools, designated supports, accommodations,
unlisted resources or instructional supports, where appropriate, as specified in sections
853.58 through 853.8854. The procedures shall include, but are not limited to,
those designed to ensure the uniform and standardized administration, and scoring of
the tests to pupils, the security and integrity of the test content and test items, and the
timely provision of all required pupil and school level information.
(b) The primary mode of administration of a CAASPP achievement test shall be via a computing device, the use of an assessment technology platform, and the adaptive engine.

(c) If available, an LEA may utilize a paper-pencil version of any computer-based assessment (CBA) of the CAASPP assessment system, in accordance with Education Code section 60640(e), and if the LEA identifies the pupils that are unable to access the CBA version of the test.

(d) Interim assessments and formative assessment tools shall be made available to LEA(s) for their use. Use of interim assessments and formative assessment tools shall not be considered advance preparation for a CAASPP achievement test as defined in Education Code section 60611. LEAs that use interim assessments and/or formative assessment tools shall abide by the consortium/contractor(s) administration and use requirements. Any scoring of any performance tasks for an interim assessment is the responsibility of the LEA.


§ 853.5. Use of Universal Tools, Designated Supports, and Accommodations

(a) All pupils shall be permitted the following embedded universal tools on the CAASPP achievement tests for ELA (including the components of reading, writing, and listening) and mathematics as specified below:

1. breaks for reading, writing, listening, and mathematics;
2. calculator for specific mathematics items only in grades 6 through 8 and 11;
3. digital notepad for reading, writing, listening, and mathematics;
4. English dictionary for writing (ELA-performance task—full write not short paragraph responses);
5. English glossary for reading, writing, listening, and mathematics;
6. expandable passages for reading, writing, listening, and mathematics;
7. global notes for writing (ELA-performance task—full write not short paragraph responses);
8. highlighter for reading, writing, listening, and mathematics;
(9) keyboard navigation for reading, writing, listening, and mathematics;
(10) mark for review for reading, writing, listening, and mathematics;
(11) mathematics tools (i.e., embedded ruler and embedded protractor) for specific mathematics items;
(12) spell check for specific writing items;
(13) strikethrough for reading, writing, listening, and mathematics;
(14) writing tools for specific pupil-generated responses; or
(15) zoom for reading, writing, listening, and mathematics.
(b) All pupils shall be permitted the following non-embedded universal tools on the CAASPP tests for ELA (including the components of reading, writing, and listening), mathematics, science, and primary language as specified below:
   (1) breaks;
   (2) English dictionary for ELA performance task—full write not short paragraph responses;
   (3) scratch paper;
   (4) thesaurus for ELA performance task—full write not short paragraph responses;
   (5) color overlay for science and primary language test;
(c) All pupils shall be permitted the following embedded designated supports when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or specified in the pupil’s IEP or Section 504 Plan on the CAASPP achievement tests for ELA (including the components of reading, writing, and listening) and mathematics as specified below:
   (1) color contrast for reading, writing, listening, and mathematics;
   (2) masking for reading, writing, listening, and mathematics;
   (3) text-to-speech for writing, listening, mathematics, and reading items but not reading passages;
   (4) translations (glossary) for mathematics;
   (5) Spanish translations (stacked) and translated test directions for mathematics; or
   (6) turn off any universal tool for reading, writing, listening, and mathematics.
(d) All pupils shall be permitted the following non-embedded designated supports when determined for use by an educator or a team of educators (with parent/guardian
and pupil input as appropriate) or specified in the pupil’s IEP or Section 504 Plan on the
CAASPP achievement tests for ELA (including the components of reading, writing, and
listening), mathematics, science, and primary language as specified below:

(1) translated directions for ELA, mathematics, science and primary language test;
(2) bilingual dictionary for writing;
(3) access to translation glossaries/word lists for science and primary language test;
(4) color contrast for reading, writing, listening, and mathematics;
(5) color overlay for reading, writing, listening, and mathematics;
(6) magnification;
(7) read aloud for writing, listening, mathematics, and reading items but not reading
   passages;
(8) scribe for reading, listening, and mathematics;
(9) separate setting including most beneficial time of day, special lighting or
   acoustics, and/or special or adaptive furniture;
(10) translations (glossary) for mathematics (only consortium-provided glossaries for
   paper-pencil tests);
(11) noise buffers (e.g., individual carrel or study enclosure, or noise-cancelling
   headphones);
(12) translations (glossary) for science and primary language test; or
(13) read aloud for Spanish stacked translation in mathematics.
(14) simplified test directions for ELA and mathematics.

(e) The following embedded accommodations shall be provided on the CAASPP
achievement tests for ELA (including the components of reading, writing, and listening)
and mathematics when specified in a pupil’s IEP or Section 504 Plan:
(1) American Sign Language for listening and mathematics;
(2) braille for reading, writing, listening, and mathematics;
(3) closed-captioning for listening;
(4) text-to-speech for reading passages; or
(5) streamlining for reading, writing, listening, and mathematics.
(f) The following non-embedded accommodations shall be provided on the CAASPP achievement tests for ELA (including the components of reading, writing, and listening), mathematics, science, and primary language when specified in a pupil's IEP or Section 504 Plan:

1. read aloud;
2. American Sign Language for science;
3. braille for paper-pencil tests;
4. abacus for mathematics and science;
5. alternate response options for reading, writing, listening, and mathematics;
6. calculator for calculator-allowed mathematics items only in grades 6 through 8, and 11;
7. multiplication table for mathematics beginning in grade 4;
8. print on demand for reading, writing, listening, and mathematics;
9. read aloud for reading passages;
10. scribe for writing, science, and primary language test;
11. speech-to-text; or
12. large-print version of a paper-pencil test.

(g) If a consortium (in which California is a participant) amends or approves of a universal tool(s), designated support(s), and/or accommodation(s) not listed in subdivisions (a) through (f), the CDE shall approve its use.

NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 60605 and 60640, Education Code; and 34 C.F.R. Sections 200.1 and 300.160(b).

§ 853.6. Instructional Supports and Resources on California Alternate Assessments (CAA).

(a) Administration of the CAA to eligible pupils shall be one-on-one (test examiner to pupil).

(b) Depending upon the pupil's disability or needs, the CAA may or may not include the student's independent use of the testing interface.
(c) With the exception of inappropriate test practices listed in the TAMs, eligible pupils may have instructional supports, including the language of instruction and physical supports, in addition to resources documented in the pupil's IEP or Section 504 Plan.

NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 60605 and 60640, Education Code; and 34 C.F.R. Sections 200.1 and 300.160(b).

§ 853.7. Use of Designated Supports for English Learners.

(a) An EL shall be permitted the following embedded designated supports, when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or specified in the pupil's IEP or Section 504 Plan on the CAASPP achievement tests for ELA (including the components of reading, writing, and listening) and mathematics as specified below:

(1) color contrast for reading, writing, listening, and mathematics;
(2) masking for reading, writing, listening, and mathematics;
(3) text-to-speech for writing, listening, mathematics and reading items, but not passages;
(4) translations (glossary) for mathematics;
(5) Spanish translations (stacked) and translated test directions for mathematics; or
(6) turn off any universal tool for reading, writing, listening, and mathematics.

(b) An EL shall be permitted the following non-embedded designated supports when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or specified in the pupil's IEP or Section 504 Plan on the CAASPP achievement tests for ELA (including the components of reading, writing, and listening), mathematics, science, and primary language as specified below:

(1) translated test directions for ELA mathematics, science and primary language test;
(2) bilingual dictionary for writing;
(3) access to translation glossaries/word lists for science and primary language test;
(4) color contrast for reading, writing, listening, and mathematics;
(5) color overlay for reading, writing, listening, and mathematics;

(6) magnification;

(7) read aloud for writing, listening, mathematics, and reading items but not reading passages;

(8) scribe for reading, listening, and mathematics;

(9) separate setting including most beneficial time of day, special lighting or acoustics, and/or special or adaptive furniture;

(10) translations (glossary) for mathematics (only consortium-provided glossaries for paper-pencil tests);

(11) noise buffers (e.g., individual carrel or study enclosure, or noise-cancelling headphones);

(12) translations (glossary) for science and primary language test; or

(13) read aloud for Spanish stacked translation in mathematics.

(14) simplified test directions for ELA and mathematics.

(c) If a consortium (in which California is a participant) amends or approves of a designated support(s) not listed in subdivisions (a) and/or (b), the CDE shall approve its use.


§853.8. Unlisted Resources

(a) An LEA may submit, on behalf of a pupil who has an IEP or Section 504 Plan, a request through the assessment management system to the CDE, prior to the administration of a CAASPP achievement test, to allow the use and approval of an unlisted resource. The LEA CAASPP coordinator or the CAASPP test site coordinator shall make the request on behalf of the LEA ten business days prior to the pupil's first day of CAASPP testing. The CDE shall respond to the request within four business days from the date of the electronic transmission. Transmissions must include:

(1) LEA name and county/district/school (CDS) code;

(2) school/test site and school code;

(3) LEA CAASPP coordinator name, phone number, and email address;
(4) CAASPP test site coordinator name, phone number, and email address;
(5) school/test site selected testing period;
(6) SSID(s) for the pupil(s) for which the unlisted resource(s) is/are being requested;
(7) CAASPP test and grade;
(8) if the pupil has an IEP, include the primary disability code and/or designated Section 504 Plan; and
(9) description of the unlisted resource being requested.
(b) The use and approval of an unlisted resource must be requested annually by an LEA.
(c) The use of an unlisted resource by a pupil will not be allowed if the CDE determines its use threatens the security of the test.
(d) In addition to determining whether the unlisted resource may be used, the CDE will determine whether the unlisted resource changes the construct being measured by the CAASPP achievement test.
(1) If the CDE determines the unlisted resource changes the construct being measured, the unlisted resource will not be approved but may still be used by the pupil and the pupil will receive an individual score report. The pupil will not be counted as participating in statewide testing, which will impact the accountability participation rate indicator for the LEA.
(2) If CDE determines the unlisted resource does not change the construct being measured, the unlisted resource will be approved. The pupil will receive an individual score report and the pupil will be counted as participating in statewide testing.
(e) The following non-embedded unlisted resources have already been determined to change the construct being measured on the CAASPP achievement tests for English language arts (including the components for reading, writing, and listening), mathematics, science, and primary language and will not be approved:
(1) English dictionary for reading, listening, mathematics, science, and primary language;
(2) translated word list for ELA;
(3) calculator on mathematics items in grades 3 through 5;
(4) thesaurus for reading, listening, mathematics, science and primary language;
(5) bilingual dictionary for ELA, mathematics, science and primary language;
(6) translations (glossary) for reading, writing, listening, and mathematics when not
provided by the consortium;
(7) calculator for non-specified mathematics items or science;
(8) math tools (i.e., ruler, protractor) for mathematics items; and
(9) multiplication table for mathematics in grade 3.
NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference:
Section 60640, Education Code; 20 U.S.C. Section 1412(a)(16); and 34 C.F.R. Sections
200.1 and 300.160.

§ 854.1. Use of Universal Tools, Designated Supports, and Accommodations for
English Language Arts (ELA).
(a) All pupils shall be permitted the following embedded universal tools, delivered
through an online platform, for all CAASPP achievement tests for ELA (including the
components of reading, writing, and listening) as specified below:
(1) breaks for reading, writing, and listening;
(2) digital notepad for reading, writing, and listening;
(3) English dictionary for writing (ELA-performance task(s) – full write not short
paragraph responses);
(4) English glossary for reading, writing, and listening;
(5) expandable passages for reading, writing, and listening;
(6) global notes for writing (ELA-performance task(s) – full write not short paragraph
responses)
(7) highlighter for reading, writing, and listening;
(8) keyboard navigation for reading, writing, and listening;
(9) mark for review for reading, writing, and listening;
(10) spell check for specific writing items for ELA;
(11) strikethrough for reading, writing, and listening;
(12) writing tools for specific pupil generated responses for ELA; or
(13) zoom for reading, writing, and listening.
(b) All pupils shall be permitted the following non-embedded universal tools on all
CAASPP achievement tests for ELA (including the components of reading, writing, and listening) as specified below:

1. breaks for reading, writing, and listening;
2. English dictionary for ELA performance task(s) – full write not short paragraph responses;
3. scratch paper for reading, writing, and listening; or
4. thesaurus for ELA performance task(s) – full write not short paragraph responses.

(c) All pupils shall be permitted the following embedded designated supports, delivered through an online platform, when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or specified in the pupil’s IEP or Section 504 Plan on all CAASPP achievement tests for ELA (including the components of reading, writing, and listening) as specified below:

1. color contrast for reading, writing, and listening;
2. masking for reading, writing, and listening;
3. text-to-speech for writing, listening, and reading items but not reading passages; or
4. turn off any universal tool for reading, writing, and listening.

(d) All pupils shall be permitted the following non-embedded designated supports when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or as specified in the pupil’s IEP or Section 504 Plan on the CAASPP achievement tests for ELA as specified below. Included on the following list of non-embedded designated supports are language support(s) that may be appropriate for English learners or reclassified fluent English proficient pupils:

1. bilingual dictionary for ELA performance task(s) – full write not short paragraph responses, and writing;
2. color contrast for reading, writing, and listening;
3. color overlay for reading, writing, and listening;
4. magnification for reading, writing, and listening;
5. noise buffers (e.g., individual carrel or study enclosure, or noise-cancelling headphones) for reading, writing, and listening;
(6) read aloud for writing, listening, and reading items but not reading passages;

(7) scribe for reading and listening;

(8) separate setting for reading, writing, and listening, including most beneficial time of day, special lighting or acoustics, and/or special or adaptive furniture;

(9) simplified test directions for reading, writing, and listening; or

(10) translated test directions for reading, writing, and listening.

(e) The following embedded accommodations, delivered through an online platform, shall be provided when specified in the pupil’s IEP or Section 504 Plan on all CAASPP achievement tests for ELA (including the components of reading, writing, and listening) as specified below:

(1) American Sign Language for listening;

(2) Braille for reading, writing, and listening;

(3) closed captioning for listening;

(4) streamline for reading, writing, and listening; or

(5) text-to-speech for ELA reading passages.

(f) The following non-embedded accommodations shall be provided, when specified in the pupil’s IEP or Section 504 Plan on all CAASPP achievement tests for ELA (including the components of reading, writing, and listening) as specified below:

(1) alternate response options for reading, writing, and listening;

(2) Braille for paper-pencil tests;

(3) large-print version of a paper-pencil test, as available, when developed and functional;

(4) print on demand for reading, writing, and listening;

(5) read aloud for ELA reading passages;

(6) scribe for writing; or

(7) speech-to-text.

(g) If a consortium (in which California is a participant) amends or approves of a universal tool(s), designated support(s), and/or accommodation(s) not listed in subdivisions (a) through (f), the CDE shall approve its use.

NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 60605 and 60640, Education Code; and 34 C.F.R. Sections 200.1 and
§ 854.2. Use of Universal Tools, Designated Supports, and Accommodations for Mathematics.

(a) All pupils shall be permitted the following embedded universal tools, delivered through an online platform, for all CAASPP achievement tests for mathematics as specified below:

1. breaks;
2. calculator for specific mathematics items only in grades 6 through 8 and grade 11;
3. digital notepad;
4. English glossary;
5. expandable passages;
6. highlighter;
7. keyboard navigation;
8. mark for review;
9. mathematics tools (i.e., embedded ruler and embedded protractor) for specific mathematics items;
10. strikethrough;
11. writing tools for specific pupil generated responses; or
12. zoom.

(b) All pupils shall be permitted the following non-embedded universal tools on all CAASPP achievement tests for mathematics as specified below:

1. breaks; or
2. scratch paper.

(c) All pupils shall be permitted the following embedded designated supports, delivered through an online platform, when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or as specified in the pupil’s IEP or Section 504 Plan on all CAASPP achievement tests for mathematics as specified below. Included on the following list of embedded designated supports are language support(s) that may be appropriate for English learners or reclassified fluent
English proficient pupils:
(1) color contrast;
(2) masking;
(3) text-to-speech for stimuli and items;
(4) translations (glossary);
(5) Spanish translations (stacked) and translated test directions; or
(6) turn off any universal tool.
(d) All pupils shall be permitted the following non-embedded designated supports, when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or as specified in the pupil’s IEP or Section 504 Plan on the CAASPP achievement tests for mathematics as specified below. Included on the following list of non-embedded designated supports are language support(s) that may be appropriate for English learners or reclassified fluent English proficient students:
(1) color contrast;
(2) color overlay;
(3) magnification;
(4) noise buffers (e.g., individual carrel or study enclosure, or noise-cancelling headphones);
(5) read aloud for stimuli and items;
(6) read aloud for Spanish stacked translation;
(7) scribe;
(8) separate setting, including most beneficial time of day, special lighting or acoustics, and/or special or adaptive furniture;
(9) simplified test directions;
(10) translated test directions; or
(11) translations (glossary) for mathematics (only consortium-provided glossaries for paper-pencil tests).
(e) The following embedded accommodations, delivered through an online platform, shall be provided, when specified in the pupil’s IEP or Section 504 Plan on all CAASPP achievement tests for mathematics as specified below:
(1) American Sign Language:
(2) Braille; or
(3) streamline.

(f) The following non-embedded accommodations shall be provided when specified in the pupil’s IEP or Section 504 Plan on all CAASPP achievement tests for mathematics as specified below:

(1) 100s number table for mathematics beginning in grade 4;
(2) abacus;
(3) alternate response options;
(4) Braille for paper-pencil tests;
(5) calculator for calculator-allowed mathematics items only in grades 6 through 8, and grade 11;
(6) large-print version of a paper-pencil test, as available when developed and functional;
(7) multiplication table for mathematics beginning in grade 4;
(8) print on demand; or
(9) speech-to-text.

(g) If a consortium (in which California is a participant) amends or approves of a universal tool(s), designated support(s), and/or accommodation(s) not listed in subdivisions (a) through (f), the CDE shall approve its use.


§ 854.3. Use of Universal Tools, Designated Supports, and Accommodations for Science.

(a) All pupils shall be permitted the following embedded universal tools, delivered through an online platform, for the CASTs as specified below:

(1) breaks;
(2) calculator (four function for grade 5 and scientific for grade 8 and high school);
(3) digital notepad;
(4) English glossary;
(5) expandable items;  
(5)(6) expandable passages;  
(6)(7) global notes for writing;  
(7)(8) highlighter;  
(8)(9) keyboard navigation;  
(9)(10) mark for review;  
(10)(11) mathematics tools (e.g., ruler, protractor);  
(11)(12) science charts (i.e., calendar, Periodic Table of the Elements, and conversion charts);  
(12)(13) science tools (e.g., interactive laboratory equipment, stop watch, static hardness key or tool, etc.);  
(13)(14) strikethrough;  
(14)(15) writing tools for specific pupil generated responses; or  
(15)(16) zoom.

(b) All pupils shall be permitted the following non-embedded universal tools on all CAASPP achievement tests for science as specified below:

(1) breaks; or  
(2) scratch paper.

(c) All pupils shall be permitted the following embedded designated supports, delivered through an online platform, when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or specified in the pupil’s IEP or Section 504 Plan on all CAASPP achievement tests for science as specified below. Included on the following list of embedded designated supports are language support(s) that may be appropriate for English learners or reclassified fluent English proficient pupils:

(1) color contrast;  
(2) masking;  
(3) Spanish translations (stacked);  
(4) text-to-speech for stimuli and items;  
(5) translations (glossary) for the following languages, when available when developed and functional: Arabic, Cantonese, Hmong, Korean, Mandarin, Punjabi.
Russian, Spanish, Tagalog, and Vietnamese:

(6) turn off any universal tool(s).

(d) All pupils shall be permitted the following non-embedded designated supports, when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or specified in the pupil’s IEP or Section 504 Plan on all CAASPP achievement tests for science. Included on the following list of non-embedded designated supports are language support(s) that may be appropriate for English learners or reclassified fluent English proficient students:

1. 100s number table;
2. calculator (four-function for grade 5 and scientific for grade 8 and high school);
3. color contrast;
4. color overlay;
5. magnification;
6. multiplication table;
7. noise buffers (e.g., individual carrel or study enclosure, or noise-cancelling headphones);
8. read aloud for stimuli and items;
9. science charts (state approved only, i.e., calendar, Periodic Table of the Elements, and conversion charts);
10. scribe;
11. separate setting, including most beneficial time of day, special lighting or acoustics, and/or special or adaptive furniture;
12. simplified test directions; or
13. translated test directions for the following languages, when available when developed and functional: Arabic, Armenian, Cambodian, Cantonese, Farsi, Hindi, Hmong, Japanese, Korean, Mandarin, Mixteco, Portuguese, Punjabi, Russian, Spanish, Tagalog, Urdu, and Vietnamese.

(e) The following embedded accommodations, delivered through an online platform, shall be provided, when specified in the pupil’s IEP or Section 504 Plan on all CAASPP achievement tests for science as specified below:

1. American Sign Language:
(2) Braille;
(3) closed captioning; or
(4) streamline.

(f) The following non-embedded accommodations shall be provided when specified in the pupil’s IEP or Section 504 Plan on all CAASPP achievement tests for science as specified below:

(1) abacus for specific science items;
(2) alternate response options;
(3) print on demand; or
(4) speech-to-text.


§ 854.4. Use of Universal Tools, Designated Supports, and Accommodations for Primary Language Assessment (PLA).

(a) All pupils shall be permitted the following embedded universal tools, delivered through an online platform, for all CAASPP achievement tests for PLA (including the components of reading, writing, and listening) as specified below:

(1) breaks for reading, writing, and listening;
(2) digital notepad for reading, writing, and listening;
(3) dictionary in the language of the assessment for writing (PLA-performance task – full write not short paragraph responses) – when available when developed and functional;

(4) expandable items for reading, writing, and listening;
(4)(5) expandable passages for reading, writing, and listening;
(5)(6) global notes for writing (PLA-performance task(s) – full write not short paragraph responses) – when available when developed and functional;

(6)(7) highlighter for reading, writing, and listening;
(7)(8) keyboard navigation for reading, writing, and listening;
(8)(9) mark for review for reading, writing, and listening;
(9)(10) spell check for specific writing items for PLA, when available when developed and functional;
(10)(11) strikethrough for reading, writing, and listening;
(11)(12) writing tools for specific pupil generated responses for PLA; or
(12)(13) zoom for reading, writing, and listening.

(b) All pupils shall be permitted the following non-embedded universal tools on all CAASPP achievement tests for PLA (including the components of reading, writing, and listening) as specified below:

1. breaks for reading, writing, and listening;
2. dictionary in the language of the assessment for PLA performance task(s) – full write not short paragraph responses – when available when developed and functional;
3. scratch paper for reading, writing, and listening; or
4. thesaurus in the language of the assessment for PLA performance task(s) – full write not short paragraph responses – when available when developed and functional.

(c) All pupils shall be permitted the following embedded designated supports, delivered through an online platform, when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or specified in the pupil’s IEP or Section 504 Plan on all CAASPP achievement tests for PLA (including the components of reading, writing, and listening) as specified below:

1. color contrast for reading, writing, and listening;
2. masking for reading, writing, and listening;
3. text-to-speech for writing, listening, and reading items but not reading passages; or
4. turn off any universal tool for reading, writing, and listening.

(d) All pupils shall be permitted the following non-embedded designated supports when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or as specified in the pupil’s IEP or Section 504 Plan on the CAASPP achievement tests for PLA as specified below. Included on the following list of non-embedded designated supports are language support(s) that may be appropriate for any pupil who can benefit from their use:

1. bilingual dictionary for PLA performance task(s) – full write not short paragraph
responses, and writing – when available when developed and functional;

(2) color contrast for reading, writing, and listening;

(3) color overlay for reading, writing, and listening;

(4) magnification for reading, writing, and listening;

(5) noise buffers (e.g., individual carrel or study enclosure, or noise-cancelling headphones) for reading, writing, and listening;

(6) read aloud for writing, listening, and reading items but not reading passages;

(7) scribe for reading and listening;

(8) separate setting for reading, writing, and listening, including most beneficial time of day, special lighting or acoustics, and/or special or adaptive furniture;

(9) simplified test directions for reading, writing, and listening; or

(10) translated test directions for reading, writing, and listening.

(e) The following embedded accommodations, delivered through an online platform, shall be provided when specified in the pupil’s IEP or Section 504 Plan on all CAASPP achievement tests for PLA (including the components of reading, writing, and listening) as specified below:

(1) Braille for reading, writing, and listening;

(2) streamline for reading, writing, and listening; or

(3) text-to-speech for PLA reading passages.

(f) The following non-embedded accommodations shall be provided, when specified in the pupil’s IEP or Section 504 Plan on all CAASPP achievement tests for PLA (including the components of reading, writing, and listening) as specified below:

(1) alternate response options for reading, writing, and listening;

(2) print on demand for reading, writing, and listening;

(3) read aloud for PLA reading passages; or

(4) scribe for writing.


§ 854.5. Administration, Resources, and Instructional Supports for the California
Alternate Assessments (CAAs) for English Language Arts, Mathematics, and Science.

(a) Administration of the CAAs to eligible pupils shall be one-on-one (test examiner to pupil).

(b) Depending upon the pupil’s disability or needs, the CAAs may or may not include the pupil’s independent use of the testing interface, or, for science, student’s independent response(s) to the embedded performance task(s).

(c) With the exception of inappropriate test practices listed in the TAM, eligible pupils may have instructional supports, including the language of instruction by a translator and physical supports, in addition to resources documented in the pupil’s IEP or Section 504 Plan.


§ 854.9. Unlisted Resources.

(a) An LEA may submit, on behalf of a pupil who has an IEP or Section 504 Plan, a request through the assessment management system to the CDE, prior to the administration of a CAASPP achievement test, to allow the use and approval of an unlisted resource. The LEA CAASPP coordinator or the CAASPP test site coordinator shall make the request on behalf of the LEA ten business days prior to the pupil’s first day of CAASPP testing. The CDE shall respond to the request within four business days from the date of the electronic transmission. Transmissions must include:

(1) LEA name and county/district/school (CDS) code;
(2) school/test site and school code;
(3) LEA CAASPP coordinator name, phone number, and email address;
(4) CAASPP test site coordinator name, phone number, and email address;
(5) school/test site selected testing period;
(6) **Statewide Student Identifier(s) (SSID(s))** for the pupil(s) for which the unlisted resource(s) is/are being requested;
(7) CAASPP test and grade;
(8) if the pupil has an IEP, include the primary disability code and/or designated Section 504 Plan; and
(9) description of the unlisted resource being requested.
(b) The use and approval of an unlisted resource must be requested annually by an LEA.
(c) The use of an unlisted resource by a pupil will not be allowed if the CDE determines its use threatens the security of the test.
(d) In addition to determining whether the unlisted resource may be used, the CDE will determine whether the unlisted resource changes the construct being measured by the CAASPP achievement test.
(1) If the CDE determines the unlisted resource changes the construct being measured, the unlisted resource will not be approved but may still be used by the pupil and the pupil will receive an individual score report. The pupil will not be counted as participating in statewide testing, which will impact the accountability participation rate indicator for the LEA.
(2) If CDE determines the unlisted resource does not change the construct being measured, the unlisted resource will be approved. The pupil will receive an individual score report and the pupil will be counted as participating in statewide testing.
(e) The following non-embedded unlisted resources have already been determined to change the construct being measured on the CAASPP achievement tests for English language arts ELA (including the components for reading, writing, and listening), mathematics, science, and primary language and will not be approved:
(1) 100s number table for mathematics in grade 3;
(2) American sign language or signed exact English for reading, writing, listening, mathematics, science, and primary language;
(3) bilingual dictionary for reading, mathematics, science and primary language;
(4) calculator for non-specified mathematics items;
(5) calculator on mathematics items in grades 3 through 5;
(6) English dictionary for reading, mathematics, science, and primary language;
(7) math tools (i.e., ruler, protractor) for mathematics items; and
(8) multiplication table for mathematics in grade 3.
(9) thesaurus for reading, listening, mathematics, science and primary language

(10) translations (glossary) for reading, writing, listening, and mathematics when not provided by the consortium; and

(11) translated word list for reading, writing, listening, mathematics, science, and primary language assessments;


§ 855. Available Testing Window and Selected Testing Period(s).

(a) Beginning in the 2015-16 school year, the CAASPP operational achievement tests pursuant to Education Code section 60640(b) shall be administered to each pupil at some time during the following available testing windows:

(1) Unless otherwise stated in these regulations, the available testing window shall begin on the day in which 66 percent of the school's or track's annual instructional days have been completed, but no earlier than the second Tuesday in January of each year, and testing may continue up to and including the last day of instruction for the regular school's or track's annual calendar, but in no case later than July 15 or the next weekday following the 15th if the 15th is not a weekday.

(2) The CST Science, CMA Science, and CAPA Science in grades 5, 8, and 10 shall be administered to each pupil during an available testing window of 25 instructional days that includes 12 instructional days before and after completion of 85 percent of the school's or track's annual instructional days. If an LEA elects to administer the primary language test, it shall do so during the same available window.

(3) The CAA for 2015-16 school year shall be administered during the available testing window of April 11 through June 17, 2016. Beginning in the 2016-17 school year, the CAA shall be administered to each eligible pupil during the available testing windows set forth in subdivisions (a)(1) and (2) above.

(2) The CAA for science shall be administered annually beginning on a date in September as determined by the CDE through the last day of instruction for the regular
school's or track's annual calendar, but in no case later than July 15 or the next
weekday following the 15th if the 15th is not a weekday.

(b) An LEA may designate one selected testing period for each school or track within
the available testing window set forth in subdivision (a) above, subject to the following
conditions:

(1) If a school has multiple tracks, a selected testing period may be designated for
each track. (i.e., a year-round school with three tracks may select three different
selected testing periods);

(2) An LEA shall not exceed 6 selected testing periods within the available testing
window;

(3) A selected testing period shall be no fewer than 25 consecutive instructional
days; and

(4) An LEA may extend a selected testing period up to an additional 10 consecutive
instructional days if still within the available testing window set forth in subdivision (a)
above.

(c) If an LEA does not designate a selected testing period for a school or track, then
the available testing window, pursuant to subdivisions (a)(1) and (2) above, shall be the
selected testing period for that school or track.

(d) The CDE, with the approval of the SBE President or designee, may require LEAs
to more fully utilize the testing window and may also limit the usage of the interim
assessments in instances where the CDE determines that it is necessary to do so to
ensure that the capacity of the California K-12 High Speed Network (K12HSN) is not
exceeded.

NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference:
Sections 60605, 60640, 60641 and 60642.5, Education Code.

§ 856. Sales and Use Tax. [Repealed]

Note: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.
Reference: Section 60640, Education Code; and Sections 6051 et seq. and 6201 et
seq., Revenue and Tax Code.
§ 856. Justification for Exceeding One Percent Cap on Use of Alternate Assessments

(a) On or before a date to be specified by the State Superintendent of Public Instruction, an LEA shall annually notify the CDE in writing, within 30 calendar days of a request from the CDE, if in any CAASPP achievement test administration the LEA intends to test more than one percent of the total number of pupils who are assessed using an alternate assessment aligned with alternate achievement standards based on state-adopted content standards. The following information shall be included in such notice:

(1) The county, district, and school (CDS) code(s), name(s), and representative contact information for the LEA; and

(2) Justification as to why the LEA needs to exceed the one percent cap on the use of an alternate assessment.


§ 859. CAASPP Test Security Agreement and Test Security Affidavit

(a) All LEA CAASPP coordinators and CAASPP test site coordinators shall sign the CAASPP Test Security Agreement, set forth in subdivision (b), before receiving any CAASPP achievement tests administered pursuant to Education Code section 60640 and corresponding test materials.

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

CAASPP TEST SECURITY AGREEMENT

I acknowledge by my signature on this form that the California Assessment of Student Performance and Progress (CAASPP) achievement tests pursuant to Education Code section 60640 are secure tests and agree to each of the following conditions to ensure test security:

(1) I will take all necessary precautions to safeguard all achievement tests and corresponding test materials, whether paper-based or computer-based assessments, by limiting access to only persons within the LEA who are responsible for, and have professional interest in, the tests' security.
(2) I will keep on file the names of all persons who have been trained in the administration of CAASPP achievement tests and all persons with access to achievement tests and corresponding test materials, whether paper-based or computer-based assessments. I have and shall have all other persons having access to the achievement tests and corresponding test materials read and sign the CAASPP Test Security Affidavit that will be kept on file in the LEA office.

(3) Except during the administration of the tests, I will keep the paper-pencil tests, and corresponding test materials in a securely locked room that can be entered only with a key or keycard and, when possible, in a locked storage cabinet within that room.

(4) I will securely destroy all print-on-demand papers, scratch paper, and other documents as prescribed within the contractor's(s') or consortium's administrative manuals and documentation.

(5) With the exception of subdivision (6) below, I will deliver achievement tests and corresponding test materials or allow electronic access thereto, only on actual testing dates and only to those persons who have executed CAASPP Test Security Affidavits.

(6) For an alternate assessment (CAA and CAPA Science), I will keep all tests and testing materials in the manner set forth above in subdivisions (b)(3) and (5) except during actual testing administration or when being used by test examiners to prepare for and to administer the assessment. I will adhere to the contractor's directions for the distribution of the corresponding test materials to test examiners.

By signing my name to this document, I am assuring that I have completely read and will abide by the above conditions.

Signed: __________________________________________________

Print Name: ______________________________________________

Title: ___________________________________________________

LEA: ___________________________________________________

Date: ____________________________________________________
section 60640, shall acknowledge the limited purpose of their access to the
achievement tests by signing the CAASPP Test Security Affidavit set forth in subdivision
(d).

(d) The CAASPP Test Security Affidavit shall be as follows:

CAASPP TEST SECURITY AFFIDAVIT

I acknowledge that I will have access to one or more of the California Assessment of
Student Performance and Progress (CAASPP) achievement tests pursuant to
Education Code section 60640, for the purpose of administering the test(s). I
understand that these materials are highly secure and may be under copyright
restrictions and it is my professional responsibility to protect their security as follows:

(1) I will not divulge the contents of the CAASPP achievement tests and
corresponding test materials to any other person through verbal, written, or any other
means of communication. This includes, but is not limited to, sharing or posting test
content via the Internet or by email without the prior express written permission of the
CDE.

(2) I will not copy or take a photo of any part of the achievement test(s) or
corresponding test materials. This includes, but is not limited to, photocopying (including
enlarging) and recording without the prior expressed written permission of the CDE.

(3) Except during the actual testing administrations or as otherwise provided for by
law, I will keep the achievement test(s) and corresponding test materials secure until the
test(s) are actually distributed to pupils when tests and testing materials are checked in
and out by the CAASPP test site coordinator. Keeping materials secure means that test
materials are required to be kept in a securely locked room that can be entered only
with a key or keycard and, when possible, in a locked storage cabinet within that room.

(4) I will limit access to the achievement test(s) and corresponding test materials by
test examinees to the actual testing periods when they are taking the test(s). I
understand that only pupils who are testing and LEA staff participating in the test
administration who have signed a CAASPP Test Security Affidavit may be in the room
when and where an achievement test is being administered.
(A) I will keep all assigned, generated, or created usernames, passwords, and logins secure and not divulge pupil personal information to anyone other than the pupil to whom the information pertains for the purpose of logging on to the test delivery system.

(B) I will not allow anyone other than the assigned pupils to log into their assigned test. I may assist pupils with using their information to log into their assigned test.

(C) I will not use a pupil's information to log in as a pupil or allow a pupil to log in using another pupil's information.

(D) I will not allow pupils to access electronic devices that allow them to access outside information, communicate with other pupils, or photograph or copy test content. This includes, but is not limited to, cell phones, personal digital assistants (PDAs), tablets, laptops, cameras, and electronic translation devices.

(E) I will collect and account for all achievement test materials following each testing session and will not permit pupils to remove any test materials by any means from the room(s) where testing takes place. After each testing session, I will count all test booklets and answer documents before allowing any pupil to leave the testing room and/or ensure that all pupils have properly logged off the test delivery system.

(F) I will not review any achievement test questions, passages, performance tasks, or other test items independently or with pupils or any other person at any time, including before, during, or following testing. I understand that this includes any discussion between LEA staff for training or professional development whether one-on-one or in a staff meeting.

(G) I will not, for any achievement test, develop scoring keys, review any pupil responses, or prepare answer documents. I understand that this includes coaching pupils or providing any other type of assistance to pupils that may affect their responses. This includes, but is not limited to, both verbal cues (e.g., interpreting, explaining, or paraphrasing the test items or prompts) and nonverbal cues (e.g., voice inflection, pointing, or nodding head) to the correct answer (anything that may indicate correct or incorrect answers), or completing or changing pupils' answers.

(H) I will return all achievement tests and correspondent test materials to the designated CAASPP test site coordinator each day upon completion of testing. I understand that all test booklets, answer documents, and scratch paper shall be
returned to the CAASPP test site coordinator each day immediately after testing has been completed for storage or confidential destruction.

(10) If I administer and/or observe the administration of an alternate assessment, which means that I am a certificated or a licensed LEA employee and a trained examiner, I will keep all the alternate assessment materials in a securely locked room, and, when possible, in a locked storage cabinet within that room except when I am preparing for the administration, administering, or observing the administration of the assessment to pupils.

(11) I will actively supervise pupils throughout the paper-pencil testing session to ensure that they are working on the correct test section or part, marking their answers in the correct section of their answer documents, following instructions, and are accessing only authorized materials (non-embedded universal tools, designated supports, accommodations, instructional supports for alternate assessments or unlisted resources) needed for the test being administered.

(12) I will actively supervise pupils throughout the testing session and verify that pupils have selected the appropriate assessment for the testing session and have completed any necessary preceding test sections and/or classroom activities.

(13) I will administer the achievement test(s) in accordance with the directions for test administration and test administration manuals prepared by the CAASPP testing contractor(s), or any additional guidance provided by the CAASPP test contractor(s). I understand that the unauthorized copying, sharing, or reusing of any test booklet, test question, performance task, or answer document by any means is prohibited. This includes, but is not limited to, photocopying, recording, emailing, messaging (instant, text, or multimedia messaging service, or digital application), using a camera/camera phone, and sharing or posting test content via the Internet without the express prior written permission of the CDE.

(14) I have been trained to administer the achievement tests. By signing my name to this document, I am assuring that I have completely read this affidavit and will abide by the above conditions.

Signed: __________________________________________________
Print Name: ______________________________________________
To maintain the security of the CAASPP assessment system, all LEA CAASPP coordinators and CAASPP test site coordinators shall immediately, within 24 hours, notify the CDE of any security breaches or testing irregularities occurring either before, during, or after the test administration(s).

ADDENDUM TO FINAL STATEMENT OF REASONS
California Assessment of Student Performance and Progress (CAASPP)

UPDATE OF INITIAL STATEMENT OF REASONS

The original proposed text was made available for public comment for at least 45 days from March 24, 2017 through May 8, 2017. One individual submitted comments during the 45-day comment period.

A public hearing was held at 9:30 a.m. on May 8, 2017, at the California Department of Education (CDE). No commenters attended the public hearing.

After the 45-day comment period, changes were made to the proposed text of the regulations and sent out for a 15-Day comment period from July 14, 2017 through July 29, 2017. No written comments were received during this period.

The Final Statement of Reasons submitted with File 2017-0815-01C is incorporated by reference and addresses the above mentioned comment periods.

After the 15-day comment period, the proposed text of the regulations was submitted to the Office of Administrative Law on August 15, 2017 (File 2017-0815-01C). Due to concerns expressed by the Office of Administrative Law (OAL), the proposed text of the regulations was withdrawn on September 27, 2017. The following changes were subsequently made to the proposed text of the regulations and sent out for a second 15-day comment period, November 13 through November 28, 2017, inclusive, to address concerns expressed by OAL and the CDE:

Section 850(s) is amended to specifically cite to Education Code sections 60640 and 60641 as support when defining the term “Operational.” “Operational” for purposes of these regulations means a test administration that produces valid and reliable results which are used for public reporting purposes and for which pupil score reports will be issued “pursuant to Education Code sections 60640 and 60641.” This amendment is intended to provide necessary clarity for the public.

In the NOTE section for Section 850(s), the reference to Education Code section 60641 is added.

Section 850(v) is amended to delete the statutory reference to “section 602(3) of the Individuals with Disabilities Education Act (IDEA)” and replace it with the corresponding citation contained in the United States Code that defines a pupil with a disability which is “title 20 United States Code section 1401(3).” This change enables members of the public to be able to more readily locate the statutory reference.
In the NOTE section for Section 850(v), the reference to section 602(3) is deleted and replaced with the reference to title 20 United States Code section 1401(3).

Sections 854.1(f)(3); 854.2(f)(6); 854.3(c)(5); 854.3(d)(13); 854.4(a)(3),(6) and (10), 854.4(b)(2) and (4); and 854.4(d)(1) are all amended to delete the phrase “as available” or “when available” when the phrase appears and replace it with the phrase “when developed and functional.” This amendment is necessary to provide clarity to the field as to when the specific universal tool, designated support or accommodation is permitted to be used the same as all of the other tools, supports or accommodations.

Section 856(a) is amended to delete the current language which leaves it unclear as to when LEAs shall annually notify the CDE in writing if in any CAASPP achievement test administration it intends to test more than one percent of the total number of pupils assessed with an alternate assessment. Subsection (a) is amended to specify that LEAs shall provide such notice annually within 30 calendar days from when they are requested to submit such notice from the CDE. This provides clarity to the field so they will know exactly how long they have to file the notice from when the request is issued by the CDE.

In addition, the CDE relied upon the following documents in the drafting of these regulations that were not included in the Initial Statement of Reasons:

- “California Spanish Assessment Accessibility Supports for Operational Testing” (Contract # CN150012) - Prepared for the California Department of Education by Educational Testing Service, Presented January 27, 2017. A copy of this document can be obtained contacting the CDE Regulations Coordinator at regcomments@cde.ca.gov or 916-319-0860.


ALTERNATIVES DETERMINATION

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

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.
SUPPLEMENTAL STATEMENT OF REASONS
California Assessment of Student Performance and Progress (CAASPP)

The State Board of Education withdrew the prior permanent regulations rulemaking file on September 27, 2017, due to issues raised by the Office of Administrative Law. This Supplemental Statement of Reasons is intended to address those issues, as well as changes to sections of the proposed regulations as described below.

**Section 850(s) is amended to specifically cite to Education Code sections 60640 and 60641 as support when defining the term “Operational.”** “Operational” for purposes of these regulations means a test administration that produces valid and reliable results which are used for public reporting purposes and for which pupil score reports will be issued “pursuant to Education Code sections 60640 and 60641.” This amendment is intended to provide necessary clarity for the public.

In the NOTE section for Section 850(s), the reference to Education Code section 60641 is added.

**Section 850(v) is amended to delete the statutory reference to “section 602(3) of the Individuals with Disabilities Education Act (IDEA)” and replace it with the corresponding citation contained in the United States Code that defines a pupil with a disability which is “title 20 United States Code section 1401(3).”** This change enables members of the public to be able to more readily locate the statutory reference.

In the NOTE section for Section 850(v), the reference to section 602(3) is deleted and replaced with the reference to title 20 United States Code section 1401(3).

**Sections 854.1(f)(3); 854.2(f)(6); 854.3(c)(5); 854.3(d)(13); 854.4(a)(3),(6) and (10) 854.4(b)(2) and (4); and 854.4(d)(1) are all amended to delete the phrase “as available” or “when available” when the phrase appears and replace it with the phrase “when developed and functional.”** This amendment is necessary to provide clarity to the field as to when the specific universal tool, designated support or accommodation is permitted to be used the same as all of the other tools, supports or accommodations.

**Section 856(a) is amended to delete the current language which leaves it unclear as to when LEAs shall annually notify the CDE in writing if in any CAASPP achievement test administration it intends to test more than one percent of the total number of pupils assessed with an alternate assessment.** Subsection (a) is amended to specify that LEAs shall provide such notice annually within 30 calendar days from when they are requested to submit such notice from the CDE. This provides clarity to the field so they will know exactly how long they have to file the notice from when the request is issued by the CDE.
In addition, the California Department of Education relied upon the following documents in the drafting of these regulations that were not included in the Initial Statement of Reasons:

- “California Spanish Assessment Accessibility Supports for Operational Testing” (Contract # CN150012) - Prepared for the California Department of Education by Educational Testing Service, Presented January 27, 2017. A copy of this document can be obtained contacting the CDE Regulations Coordinator at regcomments@cde.ca.gov or 916-319-0860.


10-13-17 [California Department of Education]
This is the official scanned version of Item 10 Attachment 5 from the California State Board of Education (SBE) Meeting Agenda for November 2017 posted at http://www.cde.ca.gov/be/ag/ag/yr17/agenda201711.asp

An accessible version of the contents of this document is located at http://www.cde.ca.gov/be/ag/ag/yr17/nov17/item10a5aav.asp

The scanned document starts following this initial page.
STATE OF CALIFORNIA — DEPARTMENT OF FINANCE
ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)
812. 399 [REV. 12/2013]

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME
Education

CONTACT PERSON
Amy Tang-Paterno

EMAIL ADDRESS
Atangpaterno@cde.ca.gov

TELEPHONE NUMBER
322-6630

DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400
California Assessment of Student Performance and Progress (dated 11-30-16)

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:
   □ a. Impacts business and/or employees
   □ b. Impacts small businesses
   □ c. Impacts jobs or occupations
   □ d. Impacts California competitiveness
   □ e. Imposes reporting requirements
   □ f. Imposes prescriptive instead of performance
   □ g. Impacts Individuals
   □ h. None of the above (Explain below):

   The regs align to test guidelines and would not impose additional private sector costs.

   If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
   If box in Item 1 h. is checked, complete the Fiscal Impact Statement as appropriate.

2. The ________________________ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
   □ Below $10 million
   □ Between $10 and $25 million
   □ Between $25 and $50 million
   □ Over $50 million (if the economic impact is over $50 million, agencies are required to submit a Standardized Regulatory Impact Assessment
   as specified in Government Code Section 11346.3(c)).

3. 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:

4. Enter the number of businesses that will be created: ___________________ eliminated: ___________________

   Explain:

5. Indicate the geographic extent of Impacts:
   □ Statewide
   □ Local or regional (List areas):

6. Enter the number of jobs created: ___________________ and eliminated: ___________________

   Describe the types of jobs or occupations impacted:

7. 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:

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: $ ______________

   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 of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment:

   ____________________________________________________________

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? $ ______________

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation:

   ____________________________________________________________

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:

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Benefit: $</th>
<th>Cost: $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternative 1</td>
<td>Benefit: $</td>
<td>Cost: $</td>
</tr>
<tr>
<td>Alternative 2</td>
<td>Benefit: $</td>
<td>Cost: $</td>
</tr>
</tbody>
</table>

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.

California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises exceed $10 million?  

   YES  NO

   If YES, complete E2. and E3

   If NO, skip to E4

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

   Alternative 1:

   Alternative 2:

   (Attach additional pages for other alternatives)

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

   Regulation: Total Cost $  Cost-effectiveness ratio: $
   Alternative 1: Total Cost $  Cost-effectiveness ratio: $
   Alternative 2: Total Cost $  Cost-effectiveness ratio: $

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding $50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?  

   YES  NO

   If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

   The increase or decrease of investment in the State:

   The incentive for innovation in products, materials or processes:

   The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency:
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 in the current State Fiscal Year which are reimbursable by the State. (Approximate)  
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

$ ___________________

   a. Funding provided in
      ____________________ or Chapter ____________________, Statutes of ____________________.

   b. Funding will be requested in the Governor's Budget Act of ____________________, Fiscal Year ______________.

2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)  
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

$ ___________________

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

   a. Implements the Federal mandate contained in ____________________.

   b. Implements the court mandate set forth by the ____________________ Court.  
      Case of: ____________________ vs. ____________________.

   c. Implements a mandate of the people of this State expressed in their approval of Proposition No. ____________________.
      Date of Election: ____________________.

   d. Issued only in response to a specific request from affected local entity(s).

   Local entity(s) affected: ____________________.

   e. Will be fully financed from the fees, revenue, etc. from: ____________________.
      Authorized by Section: ____________________, 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;

   g. Creates, eliminates, or changes the penalty for a new crime or Infraction contained in ____________________.

3. Annual Savings. (approximate)

$ ____________________

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

5. No fiscal impact exists. This regulation does not affect any local entity or program.

6. Other. Explain ____________________.
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 in the current State Fiscal Year. (Approximate)

$ ______________________

It is anticipated that State agencies will:

☐ a. Absorb these additional costs within their existing budgets and resources.

☐ b. Increase the currently authorized budget level for the ______________________ Fiscal Year

☐ 2. Savings in the current State Fiscal Year. (Approximate)

$ ______________________

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.

☒ 4. Other. Explain  The regulations do not impose any additional costs as they provide clarity and address issues with the existing regulations for the California Assessment of Student Performance and Progress tests.

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 in the current State Fiscal Year. (Approximate)

$ ______________________

☐ 2. Savings in the current State Fiscal Year. (Approximate)

$ ______________________

☐ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

☐ 4. Other. Explain


FISCAL OFFICER SIGNATURE

[Signature]

DATE

December 9, 2016

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, 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.

AGENCY SECRETARY

[Signature]

DATE

12/15/16

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE
Economic and Fiscal Impact Statement


Department Name: California Department of Education

Contact Person: Amy Tang-Paterno

E-mail Address: atangpaterno@cde.ca.gov

Telephone Number: 916-322-6630

Descriptive Title From Notice Register Or From 400: California Assessment of student Performance and Progress (date 11-30-16)

Notice File Number: Z

Economic Impact Statement

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

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

- Selected option is H: None of the above (Explain below)
- Option H explanation: The regs align to test guidelines and would not impose add'l private sector costs.

Fiscal Impact Statement

Section A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

- Selected option is 5: No fiscal impact exists. This regulation does not affect any local entity or program.

Section 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.)

- Selected option is 4: Other. Explain. The regulations do not impose any additional costs as they provide clarity and address issues with the existing regulations for the California Assessment of Student Performance and Progress tests.

Section C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS (Indicate appropriate boxes1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)
Selected option is 3: No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

Fiscal Officer Signature: Signed by Amy Tang-Paterno dated December 19, 2016

The signature attests that the agency has completed the STD.399 according to the instructions in the State Administrative Manual (SAM) sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or department not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

Agency Secretary: Contains signature dated December 15, 2016

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

Department of Finance Program Budget Manager: No signature.
SUMMARY OF THE ISSUE(S)

Before the California Department of Education (CDE) can make annual grant awards for the Career Technical Education Incentive Grant (CTEIG), the California Education Code (EC) Section 53074 requires that the CDE submit a list of recommended new and renewal grant recipients to the State Board of Education (SBE) for review and approval. The CDE is providing a list of eligible grantees for the 2017–18 fiscal year. These grantees did not apply for, or were not awarded, funding from the 2016–17 fiscal year. Current grantees will provide the CDE a progress report and renewal application. The CDE will provide a grantee renewal list for SBE approval at the March 2018 SBE meeting.

RECOMMENDATION

The CDE recommends that the SBE approve the list of grantees for the grant term of October 1, 2017, through June 30, 2019.

BRIEF HISTORY OF KEY ISSUES

The CTEIG program was established as part of the 2016–17 California State Budget. The CTEIG was created as a state education, economic, and workforce development initiative with the goal of providing pupils in kindergarten through grade twelve, inclusive, with the knowledge and skills necessary to transition to employment and postsecondary education. The purpose of the CTEIG is to encourage the development of new career technical education (CTE) programs and enhance and maintain current CTE programs during implementation of the school district and charter school local control funding formula (LCFF).
A grant recipient under EC Section 53072 may consist of one or more, or any combination, of the following:

a. School Districts

b. County Offices of Education

c. Charter Schools with an active charter number

d. Regional Occupational Centers or Programs operated by joint powers authorities, provided that the application has the written consent of each participating local educational agency (LEA).

The focus of the grant is the delivery and sustainability of high quality CTE programs. Grant recipients of these funds are expected to implement and maintain a CTE program meeting the elements of a high quality CTE program pursuant to EC Section 53071(c):

(1) Offers high quality curriculum and instruction aligned with the California CTE Model Curriculum Standards, including, but not limited to, providing a coherent sequence of CTE courses that enable pupils to transition to postsecondary education programs that lead to a career pathway or attain employment upon graduation from high school.

(2) Provides pupils with quality career exploration and guidance.

(3) Provides pupil support services including counseling and leadership development.

(4) Provides for system alignment, coherence, and articulation, including ongoing and structural regional or local partnerships with postsecondary educational institutions, with documented formal written agreements.

(5) Forms ongoing and structural industry and labor partnerships, documented through formal written agreements and through participation on advisory committees.

(6) Provides opportunities for pupils to participate in after school; extended day; and out-of-school internships, competitions, and other work-based learning opportunities.

(7) Reflects regional or local labor market demands and focuses on current or emerging high-skill, high-wage, or high-demand occupations.

(8) Leads to an industry-recognized credential, certificate, or appropriate postsecondary training/employment.
(9) Is staffed by skilled teachers or faculty and provides professional development opportunities for those teachers or faculty members.

(10) Reports data, as a program participation requirement, to allow for an evaluation of the program.

In addition to meeting the minimum requirements as outlined, the CTEIG requires a proportional dollar-for-dollar match as follows:

a. For the first funding term, $1.00 for every $1.00 received from this program. For the 2015–16 application matching funds may be based on local match expenditures starting July 2015 through June 2017.

b. For the second funding term, funds expended from the grant dollars must be matched $1.50 for every $1.00 received from this program, and must be expended by June 30, 2018.

c. For the third funding term, funds expended from the grant dollars must be matched $2.00 for every $1.00 received from this program, and must be expended by June 30, 2019.

The local match may include funding from school district/charter school LCFF apportionments pursuant to EC Section 42238.02, the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, the California Partnership Academies, the Agricultural Incentive Grant, or any other source except from the California Career Pathways Trust.

Per EC Section 53070, the grant amounts are appropriated as follows, unless otherwise determined by the State Superintendent of Public Instruction in collaboration with the Executive Director of the state board:

a) For applicants with average daily attendance (ADA) of less than or equal to 140, 4 percent is designated

b) For applicants with ADA of more than 140 and less than or equal to 550, 8 percent is designated

c) For applicants with ADA of more than 550, 88 percent is designated

LEA allocations are determined using the following formula:

- A base amount calculated on an LEA’s proportional share of the total 2016–17 ADA in grades seven through twelve
- A supplemental allocation calculated on each of the following:
  - New CTE programs
Grant applicants were required to validate how the applicant met, or will over the course of the first grant period meet, the minimum eligibility criteria which includes:

- the demonstration of high-quality CTE programs,
- how the applicant would match the dollars received from the CTEIG,
- the sustainability of CTE programs for three years past the cessation of the grant.

Applicants unable to demonstrate high-quality programs and/or sustainability were not recommended for funding.

**SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

The SBE received information regarding the CTEIG in December 2015. The SBE received items for CTEIG Grantee Approval in January and March 2016. The SBE received items for CTEIG Grantee Approval in September 2016. The SBE received items for CTEIG Grantee Renewal Approval in March 2017.

**FISCAL ANALYSIS (AS APPROPRIATE)**

Funds from the CTEIG are appropriated to the CDE from the General Fund for the CTEIG in the following amounts:

1. For the 2015–16 fiscal year, $400 million
2. For the 2016–17 fiscal year, $300 million.
3. For the 2017–18 fiscal year, $200 million.

**ATTACHMENT(S)**

Attachment 1: November 2017 Recommended Grantee List for the Career Technical Education Incentive Grant Round 3 (1 page)
November 2017 Recommended Grantee List for the Career Technical Education Incentive Grant Round 3

<table>
<thead>
<tr>
<th>CDS Code</th>
<th>LEA Name</th>
<th>Preliminary Allocation</th>
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<td>Audeo Charter K–12 Independent Study</td>
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<td>Borrego Springs Unified</td>
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<td>CHAMPS - Charter High School of Arts-Multimedia Performing</td>
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<td>29102980130823</td>
<td>EPIC de Cesar Chavez</td>
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<td>Five Keys Independence HS IS Program</td>
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<td>West Sonoma County Union High</td>
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<td><strong>Total Preliminary Award</strong></td>
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<td><strong>$2,367,475</strong></td>
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CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2017 AGENDA

SUBJECT

2018 Science Instructional Materials Adoption: Appointment of Reviewers and Approval of Trainers.

SUMMARY OF THE ISSUE(S)

Education Code (EC) sections 60200 and 60212 authorize the State Board of Education (SBE) to adopt instructional materials for kindergarten and grades one through eight, inclusive, in science and to charge publishers a fee for their participation in that adoption.

California Code of Regulations, Title 5 (5 CCR), Section 9512(a) requires that the SBE appoint Instructional Materials Reviewers (IMRs) and Content Review Experts (CREs) (Attachments 1 and 2) to serve as advisors to the Instructional Quality Commission (IQC) and the SBE in the review of instructional materials submitted for adoption.

5 CCR Section 9512(h) states that IMRs and CREs receive training and information during public meetings from persons recommended by the IQC and approved by the SBE (Attachment 3). 5 CCR Section 9510(k) also requires the SBE to approve any panel facilitators who are not current members of the IQC.

RECOMMENDATION

The California Department of Education (CDE) recommends that the SBE take the following actions:

1. Appoint IMRs and CREs as recommended by the IQC

2. Approve members of the IQC and CDE staff to train reviewers for the 2018 Science Instructional Materials Adoption (Science Adoption) in April 2018

3. Approve CDE program consultants to serve as panel facilitators in the event that an insufficient number of Commissioners are available to serve in that role
BRIEF HISTORY OF KEY ISSUES

Assembly Bill X4 2 (Chapter 2, Statutes of 2009–10 Fourth Extraordinary Session) suspended the process and procedures for adopting instructional materials until the 2013–14 school year. Senate Bill 70 (Chapter 7 of the Statutes of 2011) extended that suspension until the 2015–16 school year. As a result, the adoption of instructional materials in science was postponed from the originally planned date of 2014. The previous adoption in this subject area was conducted in 2006.

The various steps involved in an adoption of instructional materials are largely dictated by the requirements in statute and the 5 CCR. IMRs and CREs appointed by the SBE will be trained in Sacramento on April 16–20, 2018; will review the submitted instructional materials independently for several months; and will reconvene in panels in Sacramento for deliberations on July 16–20, 2018.

Recruitment of reviewers took place between April 21 and July 21, 2017, using an online application approved by the SBE at its March 2017 meeting. There are two categories of reviewers: IMRs and CREs. IMRs are typically classroom teachers (5 CCR requires that teachers comprise a majority of the reviewers) but also include administrators, teachers on non-classroom assignment, and interested members of the public. CREs are required to have a doctorate degree in science or a related discipline and serve as a resource to the panel in their discipline. IMRs and CREs serve together on the panels assigned to review submitted instructional materials programs and jointly prepare a Report of Findings to the IQC.

The Commissioners’ decisions to recommend reviewers was informed by the requirements in 5 CCR Section 9512, which stipulates the requirements for IMRs and CREs as follows:

§ 9512. Appointment of Instructional Materials Reviewers and Content Review Experts.

(c) A majority of IMRs, at the time of appointment, shall be teachers who teach students in kindergarten or grades 1-12 and have a “professional” credential under (5 CCR 80001) state law, and meet the definition of “highly qualified” (20 USC 7801(23)) under federal law, and who have experience with, and expertise in, standards-based-educational programs and practices in the content field under consideration. At least one such teacher shall have experience in providing instruction to English Learners, and at least one such teacher shall have experience in providing instruction to students with disabilities.

(d) Other IMRs may be administrators, parents, local school board members, teachers not described in the first sentence of subsection (c) above, and members of the public.

(e) When the instructional materials, or curriculum frameworks and evaluation criteria, considered for adoption are in a content field other than reading/language arts and visual/performing arts, the CREs shall hold a doctoral degree in that field or related field.
(g) The SBE shall appoint IMRs and CREs who are reflective of the various ethnic groups, types of school districts, and regions in California.

A total of 165 individuals submitted applications to serve as IMRs, and 12 submitted applications to serve as CREs. From that pool of applicants, 109 IMR candidates and 11 CRE candidates were recommended by the IQC at its meeting on September 27–28, 2017. These recommendations meet the required number of current classroom teachers as outlined in 5 CCR. Other IMRs may be administrators, parents, local school board members, teachers not described in subsection (c), and members of the public. CRE applicant number 431, who has a Bachelor of Science degree in zoology, was judged by the IQC not to meet the requirement of 5 CCR Section 9512(e) as he does not possess a doctorate degree in science or in a field related to the subject area of the adoption and was recommended as an IMR.

The majority of the training will be provided by Commissioners, with support from the CDE staff. A list of those trainers is included as Attachment 3. The IQC has also recommended that former Commissioner Brian Muller and CDE staff members Ken McDonald, Alejandro Hernandez, Letty Kraus, and Joe Thompson be approved by the SBE to serve as panel facilitators in the event that an insufficient number of Commissioners are available to serve in that role.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

November 3, 2016: The SBE approved the evaluation criteria for the 2018 Science Adoption as part of its adoption of the Science Framework.

March 9, 2017: The SBE approved the timeline and reviewer application for the 2018 Science Adoption.

FISCAL ANALYSIS (AS APPROPRIATE)

EC Section 60212 requires the CDE, prior to conducting the Science Adoption, to provide public notice to all publishers and manufacturers that they will be assessed a fee to offset the cost of conducting the adoption process. The CDE estimates that the cost of the upcoming Science Adoption will be $320,000, exclusive of staff costs.

In February 2018, the CDE will collect letters of intent to participate from publishers and manufacturers of science instructional materials. Thereafter, the CDE will assess fees that will be payable by these entities based upon the number of programs and grade levels that they indicate will be submitted. Following receipt of the assessed fees, the CDE will begin the process of associating costs via its approved accounting systems process.
ATTACHMENT(S)

Attachment 1: Instructional Materials Reviewer Applicants Summary List (6 pages; 109 recommended applicants). Full applications and resumes are available in the Board Room.

Attachment 2: Content Review Expert Applicants Summary List (1 page; 11 recommended applicants). Full applications and resumes are available in the Board Room.

Attachment 3: List of Reviewer Trainers and Non-Commissioner Facilitators (2 pages)
## 2018 Science Primary Adoption
### Instructional Materials Reviewer Applicants Summary List

The following applicants are recommended by the Instructional Quality Commission. The full applications and resumes of the applicants (with personal contact information redacted) are available at the State Board of Education office.

<table>
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<th>First Name</th>
<th>Last Name</th>
<th>Position Title</th>
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<td>Science Specialist</td>
<td>Manhattan Beach Unified School District</td>
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<td>Lisa</td>
<td>Siesser</td>
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<td>Beaumont Unified School District</td>
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<td>Rachael</td>
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<td>Stacey</td>
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<td>Jessica</td>
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<td>Jan</td>
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The full applications and resumes of the applicants (with personal contact information redacted) are available at the State Board of Education office.

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2018 Science Primary Adoption
List of Trainers

The following individuals will serve as trainers at the reviewer training event that will be held on April 16–20, 2018, at the DoubleTree Hotel in Sacramento. Pursuant to the California Code of Regulations, Title 5, Section 9510(k), the California Department of Education (CDE) staff members and a former member of the Instructional Quality Commission noted with an asterisk (*) below are recommended to be panel facilitators in the event that insufficient members of the Commission are available to serve in that role.

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In addition to the staff listed above, the CDE notes the participation of State Board of Education members and CDE Executive Leadership in this process.
CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2017 AGENDA

SUBJECT

Instructional Materials Adoptions—Adopt Proposed Amendments to California Code of Regulations, Title 5, Section 9517.3.

SUMMARY OF THE ISSUE(S)

Education Code (EC) Section 60213 requires the California Department of Education (CDE) to assess a fee from publishers participating in State Board of Education (SBE) instructional materials adoptions. The attached proposed amendment to Title 5 of the California Code of Regulations (5 CCR) Section 9517.3 is necessary in order to conduct instructional materials adoptions pursuant to EC Section 60213.

At its July 2017 meeting, the SBE approved the commencement of the rulemaking process to amend 5 CCR Section 9517.3 for instructional materials adoptions. There were no changes made to the proposed regulations based on the public comment period, so approval of this item would authorize CDE to seek adoption from the Office of Administrative Law (OAL).

RECOMMENDATION

The CDE recommends the SBE take the following actions:

- Approve the Final Statement of Reasons.
- Formally adopt the proposed regulations approved by the SBE at the July 2017 meeting. No amendments or edits have been made to the proposed regulations.
- Direct the CDE to submit the rulemaking file to the OAL for approval.
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.
BRIEF HISTORY OF KEY ISSUES

Pursuant to EC Section 60200, the SBE is directed to adopt instructional materials "at least once...every eight years" per subject. EC Section 60213 requires the CDE to notify publishers of a pending adoption and that publishers choosing to participate will be assessed a fee based upon the number of instructional materials programs the publisher indicates will be submitted for review and the number of grade levels proposed to be covered by each program. The law also allows the SBE to reduce the fee for defined "small publishers" applying for such a reduction. Revenue derived from these fees is budgeted as reimbursements for adoption costs.

The proposed amendments to 5 CCR Section 9517.3 would establish the details for participation, including the fee amount. In that EC Section 60213 stipulates that the fee “shall cover the cost of conducting the adoption” and that “general fund revenue shall not be used for the cost of conducting an adoption of instructional materials,” the CDE has raised the fee that has been set since 2005 from $5,000 to $8,000 per grade level submitted. Based on an internal analysis of the revenue and expenditures of past instructional materials adoptions and projections for the future, CDE has concluded that the proposed fee is necessary to cover the cost of an adoption.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The California Constitution, Article 9, Section 7.5 provides that the SBE shall adopt instructional materials for use in grades one through eight (and pursuant to EC Section 60200, kindergarten).

In 2014 and 2015, the SBE adopted instructional materials for mathematics and English language arts/English language development, respectively. The CDE and SBE are currently engaged in the instructional materials adoption process for history–social science, which will culminate in a SBE adoption action in November 2017. The CDE and SBE are scheduled to conduct an instructional materials adoption for science in 2018.

Since the 2014 mathematics adoption, California statute has required publisher participation fees specified for each individual adoption, and in each case the SBE has authorized both the commencement of the rulemaking process and the final regulations. EC Section 60213, authorized via the Education Trailer Bill of 2017, stipulates that all future adoptions shall include a publisher participation fee, which necessitates this rulemaking process.

At its July 2017 meeting, the SBE approved the commencement of the rulemaking process to amend 5 CCR Section 9517.3 for instructional materials adoptions (see http://www.cde.ca.gov/be/ag/ag/yr17/documents/jul17item12.doc).
FISCAL ANALYSIS (AS APPROPRIATE)

The proposed amendments will not result in any additional costs or savings to local educational authorities, state agencies, or federal funding to the state. EC Section 60213 provides that (1) no state general funds may be used for the cost of conducting an adoption, (2) a fee may be assessed to any publishers that choose to participate in the adoption process, (3) the fee charged to publishers shall offset the cost of conducting the adoption process and shall reflect CDE's best estimate of the cost, and (4) revenue derived from the fees shall be budgeted as reimbursements and will be subject to review through the annual budget process.

An Economic Fiscal Impact Statement is provided as Attachment 3.

ATTACHMENT(S)

Attachment 1: Final Statement of Reasons (1 page)

Attachment 2: Proposed Regulations (2 pages)

Attachment 3: Economic and Fiscal Impact Statement (STD. 399) (5 pages)
FINAL STATEMENT OF REASONS
Instructional Materials Adoptions

UPDATE OF INITIAL STATEMENT OF REASONS

The original proposed text was made available for public comment for at least 45 days from July 28, 2017, through September 11, 2017. No comments were received during the 45-day comment period.

A public hearing was held at 9:00 a.m. on September 11, 2017, at the California Department of Education. No oral comments were received at the public hearing.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF JULY 28, 2017, THROUGH SEPTEMBER 11, 2017

No written comments were received during the initial notice period of July 28, 2017, through September 11, 2017.

ALTERNATIVES DETERMINATION

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

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.
The State Board of Education has illustrated changes to the original text in the following manner: text originally proposed to be added is underlined; text proposed to be deleted is displayed in strikeout.

TITLE 5. EDUCATION

Division 1. State Department of Education

Chapter 9. Instructional Materials

Subchapter 1. Elementary Instructional Materials

Article 2. Adoption of Curriculum Frameworks and Instructional Materials – Procedures

§ 9517.3. History-Social Science Instructional Materials Adoptions.

(a) The State Board of Education (SBE) adoptions of basic instructional materials for history-social science (HSS) shall be conducted according to the following requirements:

(1) CDE staff shall prepare the following documents for review and approval of the SBE at a public meeting:

(A) A Schedule of Significant Events specific to the HSS subject matter adoption;

(B) A notice of intent to hold the HSS adoption with the information specified in section 9517.3(a)(2)(A) and (B);

(2) A notice of intent to hold the HSS adoption shall be posted on the CDE Web site, shall be mailed to all publishers who have participated in prior adoptions, shall be mailed and distributed to all publishers known to produce basic instructional materials in that subject, and shall be made available upon request.

The notice shall include:

(A) A Schedule of Significant Events.

(B) A statement that each publisher choosing to participate will be charged a fee as described in section 9517.3(a)(4).

(3) Each publisher shall provide a statement of intent to submit to the CDE in accordance with the dates set forth in the Schedule of Significant Events that specifies the following:

(A) Number of programs that the publisher will submit.
(B) Number of grade levels covered by each program.

(4) Based on the information included in a publisher's statement of intent to submit, the CDE shall assess a fee of $5,000 $8,000 per grade level for each program submitted for review. The fee shall be payable by the publisher even if the publisher subsequently chooses to withdraw a program or reduce the number of grade levels submitted for review.

(5) A “small publisher” as defined in Education Code section 60212(f)(2) 60213(d)(2), may request a reduction of the fee by submitting documentation in accordance with the date set forth in the Schedule of Significant Events, that includes the following:

(A) A statement of earnings for the most recent three fiscal years.

(B) A statement verifying the number of full-time employees excluding contracted employees.

(C) A statement verifying that the small publisher is independently owned or operated and is not dominant in its field for the subject matter being submitted.

(b) The HSS a Adoptions shall follow all other procedures set forth in this article.

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME  CA Department of Education
CONTACT PERSON  Carolyn Nealon
EMAIL ADDRESS  cnealon@cde.ca.gov
TELEPHONE NUMBER  916-319-0658

DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400
CFIRD-Instructional Materials Adoptions

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:
   - a. Impacts business and/or employees
   - b. Impacts small businesses
   - c. Impacts jobs or occupations
   - d. Impacts California competitiveness
   - e. Imposes reporting requirements
   - f. Imposes prescriptive instead of performance
   - g. Impacts individuals
   - h. None of the above (Explain below):

   If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
   If box in Item 1h. is checked, complete the Fiscal Impact Statement as appropriate.

2. The California Department of Education (Agency/Department) estimates that the economic impact of this regulation (which includes the fiscal impact) is:
   - □ Below $10 million
   - □ Between $10 and $25 million
   - □ Between $25 and $50 million
   - □ Over $50 million (If the economic impact is over $50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c))

3. Enter the total number of businesses impacted: Varies (see D-3)

   Describe the types of businesses (include nonprofits): Textbook publishers

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

4. Enter the number of businesses that will be created: 0  eliminated: 0

   Explain:

5. Indicate the geographic extent of impacts: □ Statewide

   □ Local or regional (List areas):

6. Enter the number of jobs created: 0  and eliminated: 0

   Describe the types of jobs or occupations impacted:

7. 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? $2-3 million
   a. Initial costs for a small business: $0  Annual ongoing costs: $0  Years: 8
   b. Initial costs for a typical business: $Vary; $8K/grade & prog.  Annual ongoing costs: $8K/grade & prog.  Years: 8
   c. Initial costs for an individual: $0  Annual ongoing costs: $0  Years: 8
   d. Describe other economic costs that may occur: Instructional materials are to be adopted at least once every eight years in each of the seven content areas. The statewide cost of these regulations assumes one complete adoption cycle, though there is no sunset date in the regulations.

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: $ 
   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 of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State’s environment. Regulations establish a uniform publisher fee methodology, providing the necessary resources to support the timely adoption of accurate, up-to-date and relevant Instructional materials.

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? $ see C1

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation:

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: No alternatives were analyzed; fee is based on historical costs of Instructional materials adoptions. Statutory changes prohibit future use of general fund revenues to support adoptions.
2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

   Regulation: Benefit: $ See C1 Cost: $ 2-3 million

   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: N/A

E. MAJOR REGULATIONS Include calculations and assumptions in the rulemaking record.

   California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises exceed $10 million? □ YES □ NO

   If YES, complete E2. and E3

   If NO, skip to E4

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

   Alternative 1: ____________________________

   Alternative 2: ____________________________

   (Attach additional pages for other alternatives)

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

   Regulation: Total Cost $ ____________________________ Cost-effectiveness ratio: $ ____________________________

   Alternative 1: Total Cost $ ____________________________ Cost-effectiveness ratio: $ ____________________________

   Alternative 2: Total Cost $ ____________________________ Cost-effectiveness ratio: $ ____________________________

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding $50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented? □ YES □ NO

   If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

   The increase or decrease of investment in the State:

   The incentive for Innovation in products, materials or processes:

   The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state’s environment and quality of life, among any other benefits identified by the agency: Ensures adequate resources to support the timely adoption of accurate, up-to-date and relevant instructional materials in public schools.
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 in the current State Fiscal Year which are reimbursable by the State. (Approximate)  
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq, of the Government Code).

$ ____________________________

☐ a. Funding provided in__________________________________________________________  
Budget Act of __________________ or Chapter __________________, Statutes of__________________________

☐ b. Funding will be requested in the Governor's Budget Act of ___________________________  
Fiscal Year: __________________________

☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)  
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq, of the Government Code).

$ ____________________________

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

☐ a. Implements the Federal mandate contained in__________________________________________

☐ b. Implements the court mandate set forth by the__________________________________________ Court.

Case of: __________________________ vs. __________________________

☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No.  ____________________________________________

Date of Election: __________________________

☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: ______________________________________________________________

☐ e. Will be fully financed from the fees, revenue, etc. from:______________________________

Authorized by Section: __________________________ 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;  

☐ g. Creates, eliminates, or changes the penalty for a new crime or Infraction contained in __________________________

☐ 3. Annual Savings. (approximate)

$ ____________________________

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

☐ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

☐ 6. Other. Explain

__________________________________________________________

PAGE 4
FISCAL IMPACT STATEMENT (CONTINUED)

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 in the current State Fiscal Year. (Approximate)

$ 320K-$370K

It is anticipated that State agencies will:

☐ a. Absorb these additional costs within their existing budgets and resources.

☒ b. Increase the currently authorized budget level for the 2017-18 through 2024-25 Fiscal Year

☐ 2. Savings in the current State Fiscal Year. (Approximate)

$ _______________________

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.

☐ 4. Other. Explain _______________________

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 in the current State Fiscal Year. (Approximate)

$ _______________________

☐ 2. Savings in the current State Fiscal Year. (Approximate)

$ _______________________

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

☐ 4. Other. Explain _______________________

FISCAL OFFICER SIGNATURE ___________________________ DATE 6/12/17

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, 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.

AGENCY SECRETARY ___________________________ DATE 6/14/17

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER ___________________________ DATE 9-8-17
Economic and Fiscal Impact Statement


Department Name: Education

Contact Person: Carolyn Nealon

E-mail Address: cnealon@cde.ca.gov

Telephone Number: 916-319-0658

Descriptive Title From Notice Register Or From 400: CFIRD-Instructional Materials Adoptions

Notice File Number: Z

Economic Impact Statement

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

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

- Selected option is A.1a: Impacts business and/or employees
- Selected option is A.1b: Impacts small businesses

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

- Selected option is A.2: The California Department of Education (Agency/Department) estimates that the economic impact of this regulation (which includes the fiscal impact) is: Below $10 million
- Selected Option A.3: Enter the total number of businesses impacted: Varies (see D-2)
  Describe the types of businesses (include nonprofits): Textbook publishers
- Selected option is A.4: Enter the number of businesses that will be created: 0 eliminated: 0
- Selected option is A.5: Indicate the geographic extent of impacts: Statewide
- Selected option is A.6: Enter the number of jobs created: 0 and eliminated: 0
- Selected option is A.7: 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? No

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

- Selected option is B.1: What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? $2-3 million
  B.1a: Initial costs for a small business: $0, Annual ongoing costs: $0, Years: 8
  B.1b: Initial costs for a typical business: $Vary: $8K/grade & prog., Annual ongoing costs: $8K/grade & prog., Years: 8
B.1c: Initial costs for an individual: $0, Annual ongoing costs: $0, Years: 8
B.1d: Describe other economic costs that may occur: Instructional materials are to be adopted at least once every eight years in each of the seven content areas. The statewide cost of these regulations assumes one complete adoption cycle, though there is no sunset date in the regulations.

Selected option is B.4: Will this regulation directly impact housing costs? NO
Selected option is B.5: Are there comparable Federal regulations? NO

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

Selected option is C.1: Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State’s environment: Regulations establish a uniform publisher fee methodology, providing the necessary resources to support the timely adoption of accurate, up-to-date and relevant instructional materials.
Selected option is C.2: Are the benefits the result of: specific statutory requirements
Selected option is C.3: What are the total statewide benefits from this regulation over its lifetime? $ see C1

Section 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.)

Selected option is D.1: List alternatives considered and describe them below. If no alternatives were considered, explain why not: No alternatives were analyzed; fee is based on historical costs of instructional materials adoptions. Statutory changes prohibit future use of general fund revenues to support adoptions.
Selected option is D.2: Summarize the total statewide costs and benefits from this regulation and each alternative considered:
Regulation: Benefit: $ See C1, Cost: $2-3 million
Explain: N/A

Section E. MAJOR REGULATIONS (Include calculations and assumptions in the rulemaking record). California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

Selected option is E.1: Will the estimated costs of this regulation to California business enterprises exceed $10 million: NO
Selected option is E.4: Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding $50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented? NO
The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state’s environment and quality of life, among any other benefits identified by the agency: Ensures adequate resources to support the timely adoption of accurate, up-to-date and relevant instructional materials in public schools.

FISCAL IMPACT STATEMENT

Section A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

Selected option is 5: No fiscal impact exists. This regulation does not affect any local entity or program.

Section 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.)
Selected option is B.1: Additional expenditures in the current State Fiscal Year. (Approximate) $320K-370K.

It is anticipated that State agencies will:

- Selected option is B.1b: Increase the currently authorized budget level for the 2017-18 through 2024-25 Fiscal Year.

**Section 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.)

- Selected option is 3: No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

_Fiscal Officer signature box:_ Signed by Carolyn Nealon dated June 12, 2017

The signature attests that the agency has completed the STD. 399 according to the instructions in the State Administrative Manual (SAM) sections 6601-6616, 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.

_Agency Secretary signature box:_ Contains signature dated June 19, 2017

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

_Department of Finance Program Budget Manager signature box:_ Contains signature dated September 8, 2017
SUBJECT

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

SUMMARY OF THE ISSUE(S)

The State Board of Education (SBE) is responsible for assigning a number to each approved charter petition. California Department of Education (CDE) staff present this routine request for assignment of charter numbers as a standard action item.

RECOMMENDATION

The CDE recommends that the SBE assign a charter number to each charter school identified in Attachment 1.

BRIEF HISTORY OF KEY ISSUES

Since the charter school law was enacted in 1992, the SBE has assigned numbers to 1,906 charter schools, including some approved by the SBE after denial by local educational agencies. Separate from that numbering system, seven all-charter districts have been jointly approved by the State Superintendent of Public Instruction and the SBE.

California Education Code Section 47602 requires the SBE to assign a number to a charter school that has been approved by a local entity in the chronological order in which it was received. Each number assigned shall correspond to a single petition that identifies a charter school that will operate within the geographic and site limitations of this part. Charter schools that share educational programs and serve similar pupil populations may not be counted as separate schools. This numbering system ensures that the state stays within a statutory cap on the total number of charter schools authorized to operate within California. The cumulative statutory cap for the fiscal year 2017–18 is 2,150. The statutory cap is not subject to waiver.
The charter schools listed in Attachment 1 were recently authorized by local boards of education and the SBE, as noted. A copy of the charter petition is on file in the Charter Schools Division.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE is responsible for assigning a number to each approved charter petition. The CDE presents this routine request for assignment of charter numbers as a standard action item.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact to the state resulting from the assignment of numbers to recently authorized charter schools.

ATTACHMENT(S)

Attachment 1: Assignment of Numbers for Charter School Petitions (1 Page)
# Assignment of Numbers for Charter School Petitions

<table>
<thead>
<tr>
<th>Charter Number</th>
<th>Term of Charter</th>
<th>Charter School Name</th>
<th>County</th>
<th>Authorizing Entity</th>
<th>Classroom-Based/ Nonclassroom-Based</th>
</tr>
</thead>
<tbody>
<tr>
<td>1907</td>
<td>7/1/2017–6/30/2022</td>
<td>Valiant Santa Barbara</td>
<td>Santa Barbara</td>
<td>Cuyama Joint Unified School District</td>
<td>Classroom-Based/Nonclassroom-Based</td>
</tr>
<tr>
<td>1908</td>
<td>7/1/2017–6/30/2022</td>
<td>Aurum Preparatory Academy</td>
<td>Alameda</td>
<td>Alameda County Office of Education</td>
<td>Classroom-Based</td>
</tr>
<tr>
<td>1910</td>
<td>1/1/2018–6/30/2022</td>
<td>Excelsior Charter Schools</td>
<td>San Bernardino</td>
<td>San Bernardino County Office of Education</td>
<td>Nonclassroom-Based</td>
</tr>
<tr>
<td>1911</td>
<td>9/1/2017–6/30/2022</td>
<td>Options for Youth – Acton, Inc.</td>
<td>Los Angeles</td>
<td>Acton-Agua Dulce Unified School District</td>
<td>Nonclassroom-Based</td>
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<tr>
<td>1912</td>
<td>7/1/2018–6/30/2021</td>
<td>MIT Griffin Academy Middle School</td>
<td>Solano</td>
<td>Vallejo City Unified School District</td>
<td>Classroom-Based</td>
</tr>
</tbody>
</table>

Created by the CDE, Charter Schools Division, September 2017
CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2017 AGENDA

SUBJECT
Approval of 2017–18 Consolidated Applications.

SUMMARY OF THE ISSUE(S)

Each local educational agency (LEA) must submit a complete and accurate Consolidated Application (ConApp) for each fiscal year in order for the California Department of Education (CDE) to send funding to LEAs that are eligible to receive federal categorical funds as designated in the ConApp. The ConApp is the annual fiscal data collected from the LEAs as required by the federal Elementary and Secondary Education Act (ESEA) of 1965. The State Board of Education (SBE) is asked to annually approve ConApps for approximately 1,800 school districts, county offices of education, and direct-funded charter schools.

RECOMMENDATION

The CDE recommends that the SBE approve the 2017–18 ConApps submitted by LEAs in Attachment 1. The CDE recommends that the SBE conditionally approve the 2017–18 ConApps submitted by LEAs in Attachment 2.

BRIEF HISTORY OF KEY ISSUES

Each year, the CDE, in compliance with California Code of Regulations, Title 5, Section 3920, recommends that the SBE approve applications for funding Consolidated Categorical Aid Programs submitted by LEAs.

Approximately $2 billion of federal funding is distributed annually through the ConApp process. The 2017–18 ConApp consists of six federal-funded programs. The funding sources include:
• Title I, Part A Basic Grant (Low Income);
• Title I, Part D (Delinquent);
• Title II, Part A (Supporting Effective Instruction);
• Title III, Part A (Immigrant);
• Title III, Part A (English Learner Students); and
• Title V, Part B (Rural, Low-Income).

ConApp data is collected twice a year. The Spring Release, which occurs from May to June, collects new fiscal year application data, end-of-school-year program participation student count, and program expenditure data. The Winter Release, which occurs from January to February, collects LEA reservations and allocations, and program expenditure data.

The CDE provides the SBE with two levels of approval recommendations. Regular approval is recommended when an LEA has submitted a correct and complete ConApp, Spring Release, and has no outstanding non-compliant issues or is making satisfactory progress toward resolving one or two non-compliant issues that is/are fewer than 365 days non-compliant. Conditional approval is recommended when an LEA has submitted a correct and complete ConApp, but has one or more non-compliant issues that is/are unresolved for over 365 days. Conditional approval by the SBE provides authority to the LEA to spend its categorical funds under the condition that it will resolve or make significant progress toward resolving non-compliant issues. In extreme cases, conditional approval may include the withholding of funds.

Attachment 1 identifies the LEAs that have no outstanding non-compliant issues or are making satisfactory progress toward resolving one or two non-compliant issues that is/are fewer than 365 days non-compliant. The CDE recommends regular approval of the 2017–18 ConApp for these 14 LEAs. Fiscal data are absent if an LEA is new or is a charter school applying for direct funding for the first time. Attachment 1 includes ConApp entitlement figures from school year 2016–17 because the figures for 2017–18 cannot be determined until all applications have been completed.

Attachment 2 identifies the LEAs that have one or more non-compliant issues that is/are unresolved for more than 365 days. The CDE recommends conditional approval of the 2017–18 ConApp for these two LEAs. Attachment 2 also includes ConApp entitlement figures from school year 2016–17 because the figures for 2017–18 cannot be determined until all applications have been completed.

Attachment 3 provides background information for each LEA listed in Attachment 2 of the remaining non-compliant items from a 2015–16 Federal Program Monitoring Review.
SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

For fiscal year 2017–18, the SBE has approved ConApps for 1,677 LEAs. Attachment 1 represents the second set of 2017–18 ConApps presented to the SBE for approval.

FISCAL ANALYSIS (AS APPROPRIATE)

The CDE provides resources to track the SBE approval status of the ConApps for approximately 1,800 LEAs. The cost to track the non-compliant status of LEAs related to programs within the ConApp is covered through a cost pool of federal funds. CDE staff communicate with LEA staff on an ongoing basis to determine the evidence needed to resolve issues, review the evidence provided by LEA staff, and maintain a tracking system to document the resolution process.

ATTACHMENT(S)

Attachment 1: Consolidated Applications List (2017–18) – Regular Approvals (1 page)

Attachment 2: Consolidated Applications List (2017–18) – Conditional Approvals (1 page)

Attachment 3: List of Local Educational Agencies Recommended for Conditional Approval with one or More Remaining Non-compliant Item(s) for than 365 days (11 pages)
Consolidated Applications List (2017–18) – Regular Approvals

The following 14 local educational agencies (LEAs) have submitted a correct and complete Consolidated Application (ConApp), Spring Release, and have no outstanding non-compliant issues or are making satisfactory progress toward resolving one or two non-compliant issues that is/are fewer than 365 days non-compliant. The California Department of Education recommends regular approval of these applications.

<table>
<thead>
<tr>
<th>Number</th>
<th>County-District-School Code</th>
<th>LEA Name</th>
<th>Total 2016–17 ConApp Entitlement</th>
<th>Total 2016–17 Entitlement Per Student</th>
<th>Total 2016–17 Title I Entitlement</th>
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<td>Ednovate - USC College Prep, Pico-Union/Westlake Campus</td>
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<td>36678920000000</td>
<td>Trona Joint Unified</td>
<td>193,093</td>
<td>712</td>
<td>158,212</td>
</tr>
<tr>
<td>13</td>
<td>37683380135913</td>
<td>Urban Discovery Academy Charter</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>14</td>
<td>19647330135632</td>
<td>WISH Academy High</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Total 2016–17 ConApp entitlement funds for above districts receiving regular approval: $1,394,218.
Consolidated Applications List (2017–18) – Conditional Approvals

The following two local educational agencies (LEAs) have submitted a correct and complete Consolidated Application (ConApp), Spring Release. They have outstanding non-compliant issues, that are over 365 days non-compliant, for which they are making satisfactory progress towards resolving. The California Department of Education recommends conditional approval of these applications.

<table>
<thead>
<tr>
<th>Number</th>
<th>County-District-School Code</th>
<th>LEA Name</th>
<th>Total 2016–17 ConApp Entitlement</th>
<th>Total 2016–17 Entitlement Per Student</th>
<th>Total 2016–17 Title I Entitlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>54721400000000</td>
<td>Stone Corral Elementary</td>
<td>130,346</td>
<td>898</td>
<td>108,276</td>
</tr>
<tr>
<td>2</td>
<td>20764140000000</td>
<td>Yosemite Unified</td>
<td>490,790</td>
<td>284</td>
<td>446,643</td>
</tr>
</tbody>
</table>

Total Number of LEAs in the report: 2
Total 2016–17 ConApp entitlement funds for above districts receiving conditional approval: $621,136
List of Local Educational Agencies Recommended for Conditional Approval with One or More Remaining Non-compliant Item(s) for More Than 365 Days

Note: The status of the finding for these local educational agencies (LEAs) is as of August 31, 2017.

Local Educational Agency: Yosemite Unified School District (YUSD)
County District Code: 20764140000000
Year Reviewed: 2015–16
Dates of Review: June 6-9, 2016
Number of Days Non-compliant as of August 31, 2017: 446

1. Program and Code: Compensatory Education (CE) 01: LEA Parent Involvement Policy

   Requirement: An LEA receiving Title I, Part A funding shall develop jointly with parents, and distribute to parents of participating children, a written parental involvement policy and State law requires that the LEA parent involvement policy address all schools (Title I and non-Title I) within the LEA consistent with the goals and purposes.

   Summary of non-compliant issue: YUSD has not provided any evidence to address the required elements of the law.

   Description of resolution status: Since June 9, 2016, California Department of Education (CDE) staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the YUSD. On August 1, 2016, the YUSD was notified that the 45-day resolution period had expired. CDE staff provided additional, in-person assistance to YUSD staff on October 6, 2016 and December 21, 2016. On June 16, 2017, the YUSD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

2. Program and Code: CE 02: School Parent Involvement Policy

   Requirement: With approval from the local governing board, each Title I, Part A school must jointly develop, and distributes to parents of Title I, Part A students, a unique school-level parental involvement policy that contains all elements CE 2.2 (a)-(f), CE 2.4 (a)-(f), and CE 2.5 and a school-parent compact that includes all elements CE 2.3 (a)-(c).

   Summary of non-compliant issue: YUSD did not provide a school-level parental involvement policy or school-parent compact for Coarsegold Elementary
or Yosemite High Schools, nor was evidence provided to show these documents have been annually distributed to parents of Title I, Part A students.

**Description of resolution status:** Since June 9, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the YUSD. On August 1, 2016, the YUSD was notified that the 45-day resolution period had expired. CDE staff provided additional, in-person assistance to YUSD staff on October 6, 2016 and December 21, 2016. The YUSD submitted evidence in January, March, and May of 2017; however, it was insufficient because not all required elements were addressed. On June 16, 2017, the YUSD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

3. **Program and Code:** CE 07: School Site Council Composition

**Requirement:** The School Site Council (SSC) members are selected by their peers. In elementary schools, half the members shall consist of the principal, classroom teachers, and other school personnel. Classroom teachers shall make up a majority of this group. The remaining half of the members shall consist of parents or other community members selected by parents; and, in secondary schools, half of the members shall consist of the principal, classroom teachers, and other school personnel. Classroom teachers shall make up a majority of this group. The remaining half of the members shall consist of equal numbers of students selected by students, and parents or other community members selected by parents.

**Summary of non-compliant issue:** YUSD did not provide evidence to show that teachers were selected by teachers, other staff were selected by other staff, students were selected by students, and that parents/community members were selected by parents for Coarsegold Elementary or Yosemite High Schools.

**Description of resolution status:** Since June 9, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the YUSD. On August 1, 2016, the YUSD was notified that the 45-day resolution period had expired. CDE staff provided additional, in-person assistance to YUSD staff on October 6, 2016 and December 21, 2016. On June 16, 2017, the YUSD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.
4. **Program and Code:** CE 08: SSC Approves Single Plan for Student Achievement (SPSA)

**Requirement:** The SSC must annually develop, review, update, and approve the SPSA. The SPSA must contain (a) an analysis of academic performance data to determine students' needs; (b) school goals to meet the identified academic needs of students; (c) activities to reach school goals that improve the academic performance of students; (d) expenditures of funds allocated to the school through the Consolidated Application (ConApp); and (e) the means of annually evaluating the progress of programs toward accomplishing the goals, including determining whether the needs of all children have been met by the strategies used, particularly the needs of low-achieving students and those at risk of not meeting state academic content standards. The local governing board must review and approve the SPSA whenever there are material changes to the plan and the SPSAs must include all applicable elements of CE 8.2 through 8.19.

**Summary of non-compliant issue:** YUSD provided no evidence for this item during the review.

**Description of resolution status:** Since June 9, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the YUSD. On August 1, 2016, the YUSD was notified that the 45-day resolution period had expired. CDE staff provided additional, in-person assistance to YUSD staff on October 6, 2016 and December 21, 2016. The YUSD submitted evidence in December 2016 and March 2017; however, the budgeted amount in the SPSA for Yosemite High School did not match the amount allocated to the school. On June 16, 2017, the YUSD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

5. **Program and Code:** CE 17: LEA Disburses Funds Consistent with the ConApp

**Requirement:** The LEA must disburse Title I, Part A funds in accordance with the approved ConApp; 17.1 for programs funded by Title I, Part A, the LEA must use no less than 85 percent of those apportionments at school sites for direct services to students (85/15 percent rule); and 17.2 the LEA must expend Title I, Part A funds reserved in the ConApp for the stated and approved purpose of the reservation.

**Summary of non-compliant issue:** YUSD provided no evidence for this item during the review.

**Description of resolution status:** Since June 9, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional
requests for documentation and by providing feedback and compliance assistance to the YUSD. On August 1, 2016, the YUSD was notified that the 45-day resolution period had expired. CDE staff provided additional, in-person assistance to YUSD staff on October 6, 2016 and December 21, 2016. The YUSD submitted evidence in October 2016, December 2016, and March 2017; however, the evidence was in draft format. The LEA must still provide evidence that the final allocations in the ConApp are aligned with the budgeted amounts in each site’s SPSA. On June 16, 2017, the YUSD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

6. **Program and Code:** CE 26: LEA Evaluates Effectiveness of Programs

**Requirement:** An LEA must annually evaluate the effectiveness of activities funded by Title I, Part A and use the evaluation to improve the educational programs.

**Summary of non-compliant issue:** YUSD provided no evidence for this item during the review.

**Description of resolution status:** Since June 9, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the YUSD. On August 1, 2016, the YUSD was notified that the 45-day resolution period had expired. CDE staff provided additional, in-person assistance to YUSD staff on October 6, 2016 and December 21, 2016. On June 16, 2017, the YUSD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

7. **Program and Code:** CE 27: SSC Annually Evaluates SPSA Services

**Requirement:** The SSC must annually evaluate the activities funded by Title I, Part A to ensure the needs of all children have been met, particularly the needs of low-achieving students and those at risk of not meeting state academic achievement standards.

**Summary of non-compliant issue:** YUSD provided no evidence for this item during the review.

**Description of resolution status:** Since June 9, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the YUSD. On August 1, 2016, the YUSD was notified that the 45-day resolution period had expired. CDE staff provided additional, in-person assistance to YUSD staff on October 6, 2016 and December 21, 2016. YUSD
submitted evidence in December 2016 and in March 2017; however, it was insufficient to meet all requirements. On June 16, 2017, the YUSD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

8. **Program and Code: CE 28: Parent Notification: Letter If Teacher is not Highly Qualified**

**Requirement:** Each LEA that receives Title I, Part A funds must hire only Elementary and Secondary Education Act compliant teachers to teach in core academic classes, and that parents are notified if their child has been taught for four or more consecutive weeks by a teacher who is not highly qualified.

**Summary of non-compliant issue:** YUSD provided no evidence for this requirement during the review.

**Description of resolution status:** Since June 9, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the YUSD. On August 1, 2016, the YUSD was notified that the 45-day resolution period had expired. CDE staff provided additional, in-person assistance to YUSD staff on October 6, 2016 and December 21, 2016. On June 16, 2017, the YUSD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

9. **Program and Code: English Learner (EL) 07: Parent/Guardian Notifications**

**Requirement:** Parents/guardians of ELs and initially fluent English-proficient students must be notified of their child’s initial English language proficiency assessment results. Parents/guardians of ELs must be notified annually of their child’s English language proficiency assessment results within 30 calendar days following receipt of results of testing from the test contractor.

**Summary of non-compliant issue:** YUSD provided no evidence for this item during the review.

**Description of resolution status:** Since June 9, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the YUSD. On August 1, 2016, the YUSD was notified that the 45-day resolution period had expired. CDE staff provided additional, in-person assistance to YUSD staff on October 6, 2016 and December 21, 2016. YUSD submitted evidence in March and April 2017; however, the evidence was of initial assessments only and not the required annual assessment results. On June 16,
2017, the YUSD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

10. Program and Code: EL 15: Teacher EL Authorization

Requirement: Teachers assigned to provide English language development and instruction in subject matter courses for ELs must be appropriately authorized.

Summary of non-compliant issue: YUSD provided no evidence for this item during the review. The YUSD must submit evidence that documents either how the identified teacher has obtained the appropriate authorization or that the teacher does not teach ELs.

Description of resolution status: Since June 9, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the YUSD. On August 1, 2016, the YUSD was notified that the 45-day resolution period had expired. CDE staff provided additional, in-person assistance to YUSD staff on October 6, 2016 and December 21, 2016. The YUSD submitted evidence in May 2017 consisting of teacher credentialing information; however, this information documented a teacher who did not have the appropriate authorization. On June 16, 2017, the district was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

11. Program and Code: EL 16: Professional Development (PD) Specific to ELs

Requirement: The LEA must provide PD specific to the implementation of programs for ELs and sufficient PD to implement the LEA’s highly effective EL program.

Summary of non-compliant issue: YUSD provided no evidence for this item during the review.

Description of resolution status: Since June 9, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the YUSD. On August 1, 2016, the YUSD was notified that the 45-day resolution period had expired. CDE staff provided additional, in-person assistance to YUSD staff on October 6, 2016 and December 21, 2016. On June 16, 2017, the YUSD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.
1. **Program and Code:** EL 06: English Learner (EL) Identification and Assessment

   **Requirement:** The LEA must properly identify and assess all students who have a primary language other than English. A home language survey (HLS) must be used at the time of initial enrollment to determine the student’s primary language. Within 30 calendar days of initial enrollment, each student whose home language is other than English, as determined by the HLS, must be assessed for English proficiency by means of the current California English language proficiency assessment. The assessment conducted must follow all of the publisher’s instructions. Each LEA must annually assess the English language development and academic progress of each EL. All currently enrolled ELs must be assessed for English language proficiency by administering the California English language proficiency assessment during the annual assessment window. Each EL with disabilities must be annually assessed for English language development using the accommodations, modifications, or alternate assessments for the current California English language proficiency assessment if specified in the pupil’s individualized education program or Section 504 Plan. Each LEA must identify all immigrant children and youth who are: (1) aged 3 through 21; (2) were not born in any state; (3) and have not been attending one or more schools in any one or more states for more than 3 full academic years.

   **Summary of non-compliant issue:** SCESD provided no evidence that demonstrated compliance for this item during the review.

   **Description of resolution status:** Since June 10, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the SCESD. On August 2, 2016, the SCESD was notified that the 45-day resolution period had expired. On June 12, 2017, the SCESD was notified that multiple attempts had been made to coordinate a conference call to discuss resolution. On June 16, 2017, the SCESD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

2. **Program and Code:** EL 07: Parent/Guardian Notifications

   **Requirement:** For LEAs receiving Title III funds, within 30 days after the beginning of the school year (or during the school year, within two weeks of child being placed in a program), parents/guardians of initially identified ELs must be
notified of elements 7.3 (a) through (h), and annually, of elements 7.4 (a) through (g).

**Summary of non-compliant issue:** SCESD provided no evidence that demonstrated compliance for this item during the review.

**Description of resolution status:** Since June 10, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the SCESD. On August 2, 2016, the SCESD was notified that the 45-day resolution period had expired. On June 12, 2017, the SCESD was notified that multiple attempts had been made to coordinate a conference call to discuss resolution. On June 16, 2017, the SCESD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

3. **Program and Code:** EL 10: Inventory

**Requirement:** For all categorical programs, the LEA must maintain an inventory record for each piece of equipment with an acquisition cost of more than $500 per unit that is purchased with Economic Impact Aid/Learning English Proficient (EIA/LEP) and Title II funds. The record must describe the acquisition by (a) through (i). The LEA must conduct a physical check of the inventory of equipment within the past two years and has reconciled the results with inventory records.

**Summary of non-compliant issue:** SCESD provided no evidence that demonstrated compliance for this item during the review.

**Description of resolution status:** Since June 10, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the SCESD. On August 2, 2016, the district was notified that the 45-day resolution period had expired. On June 12, 2017, the SCESD was notified that multiple attempts had been made to coordinate a conference call to discuss resolution. On June 16, 2017, the SCESD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

4. **Program and Code:** EL 11: Supplement, Not Supplant, with Title III & EIA/LEP

**Requirement:** General fund resources must be used to provide services and programs for ELs, including English language development and access to the core curriculum. The provision of such services and programs must not be contingent on the receipt of state or federal supplementary funds, and use of Title III funds must comply with the stipulations in EL 11.1 through 11.3.
Summary of non-compliant issue: SCESD provided no evidence that demonstrated compliance for this item during the review.

Description of resolution status: Since June 10, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the SCESD. On August 2, 2016, the SCESD was notified that the 45-day resolution period had expired. On June 12, 2017, the SCESD was notified that multiple attempts had been made to coordinate a conference call to discuss resolution. On June 16, 2017, the SCESD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

5. Program and Code: EL 16: Professional Development Specific to ELs

Requirement: The LEA must provide PD specific to the implementation of programs for ELs. The LEA must provide sufficient PD to implement the LEA’s research-based EL program. Title III-funded LEAs must provide high-quality PD to school and district staff that is: (a) designed to improve the instruction and assessment of ELs; (b) designed to enhance the teacher’s ability to understand and use curricula, assessment measures, and instructional strategies for ELs; (c) based on research demonstrating the effectiveness of the PD in increasing the pupil’s English proficiency or the teacher’s subject matter knowledge, teaching knowledge, and teaching skills; and, (d) of sufficient intensity and duration (which shall not include activities such as one-day or short-term workshops and conferences) to have a positive and lasting impact on the teacher’s performance in the classroom.

Summary of non-compliant issue: SCESD provided no evidence that demonstrated compliance for this item during the review.

Description of resolution status: Since June 10, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the SCESD. On August 2, 2016, the SCESD was notified that the 45-day resolution period had expired. On June 12, 2017, the SCESD was notified that multiple attempts had been made to coordinate a conference call to discuss resolution. On June 16, 2017, the SCESD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

6. Program and Code: EL 18: Parental Exception Waiver for Alternative Program

Requirement: Parents and guardians of ELs must be notified of the opportunity to apply for a parental exception waiver for their children to participate in an alternative program in which some or all of the instruction is delivered in the
pupil’s primary language. LEA procedures for granting parental exception waivers must include specifics as specified in (a) through (d).

**Summary of non-compliant issue:** SCESD provided no evidence that demonstrated compliance for this item during the review.

**Description of resolution status:** Since June 10, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the SCESD. On August 2, 2016, the SCESD was notified that the 45-day resolution period had expired. On June 12, 2017, the SCESD was notified that multiple attempts had been made to coordinate a conference call to discuss resolution. On June 16, 2017, the SCESD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

7. **Program and Code:** Fiscal Monitoring (FM) 01: Timekeeping Requirements

**Requirement:** Ensures that the LEA properly charges and documents salaries and wages that are reasonable, necessary, and allowable in accordance with applicable program requirements.

**Summary of non-compliant issue:** SCESD did not provide the requested time accounting documentation for a sample of its employees who work in federal programs.

**Description of resolution status:** Since June 10, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the SCESD. On August 2, 2016, the SCESD was notified that the 45-day resolution period had expired. On June 12, 2017, the SCESD was notified that multiple attempts had been made to coordinate a conference call to discuss resolution. On June 16, 2017, the district was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.

8. **Program and Code:** FM 02: Allowable Costs

**Requirement:** LEAs are required to maintain documentation to substantiate that all costs charged to federal programs are reasonable, necessary, and allowable in accordance with applicable program requirements.

**Summary of non-compliant issue:** SCESD did not provide the requested documentation to support a sample of expenditures charged to the federal programs under review.
Description of resolution status: Since June 10, 2016, CDE staff have continually monitored the status of this non-compliant item by making additional requests for documentation and by providing feedback and compliance assistance to the SCESD. On August 2, 2016, the SCESD was notified that the 45-day resolution period had expired. On March 22, 2017, the SCESD received a compliance update that listed the missing documentation. On March 23, 2017, in an attempt to reconcile discrepancies with ledger allocations, the CDE requested additional documents to resolve the finding. On June 8, 2017, CDE provided SCESD with payroll and expenditure sample documents. On June 12, 2017, the SCESD was notified that multiple attempts had been made to coordinate a conference call to discuss resolution. On June 16, 2017, the SCESD was notified via e-mail that the item needed to be resolved immediately to prevent enforcement actions by the CDE.
California Education for a Global Economy Initiative: Approve Commencement of a 15-Day Public Comment Period for Proposed Amendments to Title 5 of the California Code of Regulations Sections 11300, 11301, 11309, 11310, 11311, 11312 and 11316

SUMMARY OF THE ISSUE(S)

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

In July 2017, the CDE submitted proposed amendments to the SBE to the 5 CCR sections 11300, 11301, 11309, 11310, and 11316, and proposed new sections 11311 and 11312. These proposed amendments to the regulations were approved by the SBE at its July 2017 meeting and the rulemaking process commenced on July 29, 2017. At the conclusion of the 45-day public comment period, a public hearing was held on September 11, 2017. One attendee provided comments at the public hearing, and 19 written comments were received during the 45-day comment period.

After its review, the CDE revised the proposed regulations. The proposed changes are presented in the attached 15-day Notice of Modifications (Attachment 1) and the proposed regulations (Attachment 2).

RECOMMENDATION

The CDE recommends the SBE take the following actions:

- Approve the proposed changes to the proposed regulations.
• Direct that the proposed changes be circulated for a 15-day public comment period in accordance with Administrative Procedure Act.

• If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed regulations with changes are deemed adopted, and the CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval.

• If any relevant comments to the proposed changes are received during the 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE’s January 2018 meeting agenda for action.

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

BRIEF HISTORY OF KEY ISSUES

Prior to 1998, California schools could readily provide bilingual programs to meet the needs of English learners. Proposition 227, approved by the voters, created an “English Only” sentiment that became a barrier to the implementation of these programs. Proposition 227 specified that English learner pupils be educated through a sheltered English immersion process during a temporary transition period not normally to exceed one year. Participation in sheltered English immersion could be waived through a process initiated by a written request for a bilingual program from a pupil’s parent or legal guardian. Proposition 227 required, among other things, that “all children in California public schools be taught English by being taught in English” (EC Section 305).

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

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

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

1. The inclusion of parents and community members while considering the establishment and implementation of language acquisition programs at school districts or county offices of education, during the development of local control and accountability plans.
2. Notification to parents regarding the language acquisition programs available in the school district or county office of education.

3. A process for receiving and responding to parent requests for language acquisition programs provided at a school site.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

On July 12, 2017, the CDE recommended and the SBE approved the commencement of the rulemaking process for the CA Ed.G.E. Initiative regulations. [http://www.cde.ca.gov/be/ag/ag/yr17/documents/jul17item06.doc](http://www.cde.ca.gov/be/ag/ag/yr17/documents/jul17item06.doc)

FISCAL ANALYSIS (AS APPROPRIATE)

The proposed amendments to these regulations will not result in any additional costs or savings to local educational agencies, state agencies, or federal funding to the State.

An Economic Fiscal Impact Statement is provided as Attachment 5.

ATTACHMENT(S)

Attachment 1: 15-Day Notice of Modifications (4 pages)
Attachment 2: Proposed Regulations (10 pages)
Attachment 3: Final Statement of Reasons (5 pages)
Attachment 4: Summary of Public Comments (21 pages)
Attachments 4a-4i: Copies of Written Comments (55 pages)
Attachment 5: Economic and Fiscal Impact Statement (STD. 399) (5 pages)
November 13, 2017

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

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

Changes to the text:

General changes were made to the regulations to include grammatical edits, and renumbering and/or re-lettering to reflect deletions or additions.

After the 45-day comment period, the following changes were made to the proposed text of the regulations and sent out for a 15-day comment period:

Current title of Chapter 11, Subchapter 4 is amended from “English Language Learner Education” to “Multilingual and English Learner Education.” “Multilingual” is added to include the types of programs available under California Education Code (EC) sections 305, 306, and 310 (other than Structured English Immersion [SEI]). The word “Language” is deleted from “English Language Learners” to align the title with the term “English learner” used in the statute.

Proposed Section 11300(a) is amended to reword the section, including replacing “protected time” with “time set aside during the regular school day.” This change is necessary to specify when and how Designated English Language Development instruction is carried out.

Proposed Section 11300(d) is amended to add language to the definition of “language acquisition programs.” The new language specifically names the language acquisition programs described in the statute. This addition is necessary to align the definition to the definition of language acquisition programs in EC Section 306(c).
**Proposed Section 11300(h)** is added to provide a definition of “multilingual.” This definition is necessary to clarify the use of the term in these regulations.

**Former Proposed Section 11300(m)** is deleted. Structured English Immersion is defined in *EC* Section 306(c)(3), therefore is not necessary in regulations.

**Proposed Sections 11301(a) and (c)** are amended to add “if applicable” after “English Learner parent advisory committee.” This change is necessary to align the language in this section with *EC* Section 52062.

**Proposed Section 11309(c)(3)(A)** is amended to replace “if applicable, another” with “when the program model includes instruction in another language, proficiency in that other.” This change is necessary to clarify that proficiency in another language applies when a student participates in a language acquisition program designed for that purpose.

**Proposed Section 11309(c)(3)(B)** is amended to replace “if applicable” with “when the program model includes instruction in another language, achievement in that other.” This change is necessary to clarify that academic achievement in another language applies when a student participates in a language acquisition program designed for that purpose.

**Proposed Section 11309(d)** is amended to add language regarding the inclusion of Designated and Integrated English Language Development (ELD) in an SEI program. This addition emphasizes that SEI is a fully articulated language acquisition program, with the same services required for English learners as any other language acquisition program.

**Proposed Section 11309(e)** is amended to delete “in addition to SEI.” The deleted language is not necessary for the purposes of the section, which is to specify that a language acquisition program may serve both English learners and native speakers of English.

**Proposed Section 11310(a)** is amended to delete “any,” and replace “provided by” with “available in.” The change does not modify the meaning of the section.

**Proposed Section 11310(b)(2)** is amended to add “when the program model includes instruction in another language.” This addition is necessary to specify that the description must identify the additional language of instruction when the program design includes an additional language of instruction.

**Proposed Section 11310(b)(4)** is added to require that the notice include a description of the process for parents to request to establish a new language acquisition program at a school. This is necessary to ensure parents know how to request a new language acquisition program pursuant to *EC* Section 310.
Proposed Section 11311 amends the title of this section to replace “for” with “to establish a.” This modification is necessary to designate that the purpose of this section is to address parent requests to establish a new language acquisition program, rather than choosing a program that already exists.

Proposed Section 11311(a) is amended to add “a” and replace “provided” with “available.” These changes bring this section into alignment with the title of this section and language changes in section 11310 of these regulations.

Proposed Section 11311(f), formerly (i), is amended to replace “may” with “shall,” and adds “for a multilingual program model.” The changes are necessary to clarify to local educational agencies (LEA) that all parent requests count toward reaching the stated thresholds in cases where the requested program model goal is multilingualism.

Proposed Section 11311(h), formerly (g), is amended to remove the word “immediately.” This time requirement for a LEA to notify parents that a threshold has been met has been moved to section 11312(h)(1).

Proposed Section 11311(h)(1), formerly (g)(1), is amended to require that LEAs notify parents, teachers, and administrators “within 10 school days” of a threshold being reached. This change is necessary to provide a specified time within which LEAs must provide the required notification.

Proposed Section 11311(h)(2), formerly (g)(2), is amended to include “costs and” and “any new” to the language in this section. These additions provide further specificity on what an LEA is expected to include in their assessment for possible implementation of a language acquisition program or language program.

Proposed Section 11311(h)(3), formerly (g)(3), is amended to replace “90” with “60” calendar days, reducing the number of days for an LEA to determine whether it is possible to implement the requested language acquisition program. This regulation is necessary to ensure LEAs respond to parent requests in a timely manner.

Proposed Section 11311(h)(3)(B), formerly (g)(3)(B), is amended to require that the explanation of why it is not possible to implement a language acquisition program requested by parents is provided by the LEA in written form. This addition is necessary to maintain transparency regarding the process of responding to parent requests for a language acquisition program.

Proposed Section 11316 is amended to delete an incorrect citation.

If you have any comments regarding the proposed changes that are the topic of this 15-day Notice, the SBE will accept written comments between November 13, 2017, and November 28, 2017, inclusive.
All written comments must be submitted to the Regulations Coordinator via facsimile at 916-319-0155, by e-mail at regcomments@cde.ca.gov, or mailed and received at the following address by close of business at 5:00 p.m. on November 28, 2017, and addressed to:

Patricia Alverson, Regulations Coordinator
Legal, Audits and Compliance Branch
Administrative Supports and Regulations Adoption Unit
California Department of Education
1430 N Street, Suite 5319
Sacramento, CA 95814

All written comments received by 5:00 p.m. on November 28, 2017, which pertain to the indicated changes will be reviewed and responded to by California Department of Education (CDE) staff as part of the compilation of the rulemaking file. Written comments received by the CDE staff during the public comment period are subject to viewing under the Public Records Act.

Please note: Any written comments are to be restricted to the recent modifications as shown in the enclosed language. The SBE is not required to respond to comments received in response to this Notice on other aspects of the proposed regulations.
• The State Board of Education has illustrated changes to the original text in the following manner: text originally proposed to be added is underlined; text proposed to be deleted is displayed in strikeout.

• The 15-day text proposed to be added is in "bold underline," deleted text is displayed in "bold strikeout".

Title 5. EDUCATION
Division 1. California Department of Education
Chapter 11. Special Programs
Subchapter 4. Multilingual and English Language Learner Education

§ 11300. Definitions.

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

(a) “Designated English Language Development” means instruction provided during a time set aside in the regular school day for protected time during the regular school day, in which there is a focused instruction on the state-adopted English language development (ELD) standards to assist English learners to develop critical English language skills necessary for academic content learning in English.

(b) “English learner parent advisory committee,” means the committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063 and 52069, and Title 5 California Code of Regulations section 15495(b).

(c) “Integrated English Language Development” means instruction in which the state-adopted ELD standards are used in tandem with the state-adopted academic content standards. Integrated ELD includes specially designed academic instruction in English.

(d) “Language acquisition programs” are educational programs designed for English learners to ensure English acquisition as rapidly and effectively as
possible, that provide instruction to these pupils on the state-adopted academic content
and ELD standards through Integrated and Designated ELD, and that meet the
requirements described in section 11309 of this subchapter. **Language acquisition**
programs may include, but are not limited to, dual language programs,
transitional and developmental programs for English learners, and Structured
**English Immersion**, as specified in Education Code section 306, subdivision (c).

(e) “Language programs” are programs that are designed to provide opportunities
for pupils to be instructed in languages other than English to a degree sufficient to
produce proficiency in those languages, consistent with the provisions of Education
Code section 305, subdivision (c).

(f) “Local control and accountability plan (LCAP)” means the plan created by a local
educational agency (LEA) pursuant to Education Code sections 52060 or 52066, as
applicable to the LEA.

(g) “Local educational agency (LEA)” means a school district or county office of
education.

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

(i) “Parent advisory committee” means a committee established by a school
district or county superintendent of schools pursuant to Education Code sections 52063
or 52069.

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

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

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

(m) “State-adopted English language development standards” means standards
adopted pursuant to Education Code section 60811.
(m) “Structured English Immersion (SEI)” means a language acquisition program, where nearly all instruction is provided in English, with a curriculum and presentation designed for pupils who are learning English.

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

§ 11301. Knowledge and Fluency in English.

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

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

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


§ 11301. Community Engagement.

(a) As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English learner parent advisory committee, if applicable, and the parent advisory committee.
regarding the LEA’s existing language acquisition programs and language programs, and establishing other such programs.

(b) An LEA process for informing stakeholders and receiving input may include procedures such as stakeholder surveys, forums, and meetings with school advisory committees, or other groups representing stakeholders.

c) Prior to adoption of an LEA’s LCAP, the school district superintendent or the county superintendent of schools shall include a written response to input received from the LEA’s English learner parent advisory committee, if applicable, and parent advisory committee relating to language acquisition programs and language programs with the superintendent’s response as described in Education Code sections 52062 and 52068.


§ 11309. Parental Exception Waivers.

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

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

(1) Parents and guardians must be provided with a full written description and upon request from a parent or guardian, a spoken description of the structured English immersion program and any alternative courses of study and all educational opportunities offered by the school district and available to the pupil. The descriptions of the program choices shall address the educational materials to be used in the different options.
(2) Pursuant to Education Code section 311(c), parents and guardians must be informed that the pupil must be placed for a period of not less than thirty (30) calendar days in an English language classroom and that the school district superintendent must approve the waiver pursuant to guidelines established by the local governing board.

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

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

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

(d) In cases where a parental exception waiver pursuant to Education Code sections 311(b) and (c) is denied, the parents and guardians must be informed in writing of the reason(s) for denial and advised that they may appeal the decision to the local board of education if such an appeal is authorized by the local board of education, or to the court.
(e) For waivers pursuant to Education Code section 311(a) and for students for whom standardized assessment data is not available, school districts may use equivalent measures as determined by the local governing board.


§ 11309. Language Acquisition Programs.
(a) LEAs shall provide language acquisition programs for English learners consistent with these regulations.
(b) Whenever an LEA establishes a language acquisition program, the LEA shall confer with school personnel, including teachers and administrators with authorizations required to provide or oversee programs and services for English learners, regarding the design and content of the language acquisition program.
(c) Any language acquisition program provided by an LEA shall:
(1) Be designed using evidence-based research and include both Designated and Integrated ELD;
(2) Be allocated sufficient resources by the LEA to be effectively implemented, including, but not limited to certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals; and
(3) Within a reasonable period of time, lead to:
(A) Proficiency in English, and, if applicable when the program model includes instruction in another language, proficiency in that other another language; and
(B) Achievement of the state-adopted content standards in English, and, if applicable when the program model includes instruction in another language, another achievement in that other language.
(d) At a minimum, an LEA shall provide a program of **SEI**Structured English **Immersion** for English learners, which includes Designated and Integrated ELD.

(e) An LEA may provide language acquisition programs in addition to SEI, including programs that integrate instruction for native speakers of English and native speakers of another language, and meet the requirements of subdivision (c).


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

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


§ 11310. Parental Notice.

(a) An LEA shall notify parents of the language acquisition programs and any language programs provided by available in the LEA at the time and in the manner specified in Education Code sections 48980 and 48981. The notice specified in this section shall include a description of the process for parents to request a language acquisition program or language program for their child.

(b) The notice for regarding language acquisition programs, the notice shall include:
(1) A description of any such programs provided, including SEI\textit{Structured English Immersion};

(2) Identification of any language to be taught in addition to English, if applicable when the program model includes instruction in another language; and

(3) The information set forth in section 11309(c); and

(4) The process to request establishment of a language acquisition program not offered at the school.

(c) The notice for Regarding language programs, the notice shall specify the language(s) to be taught, and may include the program goals, methodology used, and evidence of the proposed program’s effectiveness.

(d) Parents of pupils enrolling in the LEA after the beginning of the academic school year shall be provided the notice described in subdivision (a) above upon enrollment. An LEA may provide notice to parents at additional times throughout the year.

(e) The notice to parents pursuant to this section shall be provided as described in subdivision (a) above. Additionally, verbal notice shall be provided, upon request, as reasonably necessary to effectuate notice to the parents.


§ 11311. Parent Requests to Establish a Language Acquisition Programs.

(a) An LEA shall establish a process for schools of the LEA to receive and respond to requests from parents of pupils enrolled in the school to establish a language acquisition programs other than, or in addition to, such programs provided available at the school. The LEA process shall require each school to make a written record of each request, including at least the following:

(1) The date of the request;

(2) The names of the parent and pupil;
(3) A general description of the request; and
(4) The pupil’s grade level on the date of the request.

(b) Each school shall maintain a written record of verbal requests that includes the
information set forth in subdivision (a) above.

(c) Each school shall assist parents in clarifying requests, as needed.
(d) Each school shall retain written records of parent requests for language
acquisition programs for at least three years from the date of the request.
(e) A parent whose pupil is enrolled in a school for attendance in the next school
year may submit a request for a language acquisition program.

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

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

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

(1) Within 10 school days of reaching a threshold described in subdivision (h),

   Notify the parents of pupils attending the school, the school’s teachers, and
   administrators, and the LEA’s English learner parent advisory committee and
   parent advisory committee, in writing, of the parents’ requests for a language
   acquisition program;

   (2) Identify costs and resources necessary to implement any new language
   acquisition program, including but not limited to certificated teachers with the
   appropriate authorizations, necessary instructional materials, pertinent professional
   development for the proposed program, and opportunities for parent and community
   engagement to support the proposed program goals; and
(3) Determine, within 9060 calendar days of reaching the threshold described in subdivision (g)(h), whether it is possible to implement the requested language acquisition program; and provide notice, in writing, to parents of pupils attending the school, the school’s teachers, and administrators, of its determination;

(A) In the case of an affirmative decision to implement a language acquisition program at the school, create and publish a reasonable timeline of actions necessary to implement the language acquisition program.

(B) In the case where the LEA determines it is not possible to implement a language acquisition program requested by parents, the LEA shall provide in written form an explanation of the reason(s) the program cannot be provided, and may offer an alternate option that can be implemented at the school.

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


§ 11312. Language Programs
If an LEA provides a language program or proposes to offer a language program, the LEA shall establish a process for schools of the LEA to receive and respond to input from parents and stakeholders regarding the non-English language in which instruction is provided.

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

§ 11316. Language of Parental Notice to Parents or Guardians.
All notices and other communications to parents or guardians required or permitted by these regulations must be provided in English and in the parents' or guardians' primary language to the extent required under Education Code section 48985.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 343 and 48985, Education Code; 20 U.S.C Section 1703(f) and 6318.
UPDATE OF INITIAL STATEMENT OF REASONS

The original proposed text was made available for public comment for at least 45 days from July 28, 2017, through September 11, 2017. Twenty comments were received during the 45-day comment period.

A public hearing was held at 1:30 p.m. on September 11, 2017, at the California Department of Education (CDE). One individual provided comments at the public hearing.


The CDE received 20 written comments, including one from the public hearing commenter. Twelve of the written comments were received as a form letter. The comments and responses are set forth in the attached chart (Attachment 4).

PUBLIC HEARING COMMENTS

- Attachment 4a: Martha Zaragoza-Diaz, Legislative Advocate, Zaragoza-Diaz & Associates. This commenter also provided her verbal comments in written form.

NON-FORM LETTER COMMENTS

- Attachment 4b: Deborah Escobedo, Senior Attorney, Racial Justice-Education, Lawyer’s Committee for Civil Rights of the San Francisco Bay Area; Cynthia Rice, Director of Litigation Advocacy and Training, California Rural Legal Assistance, Inc.; Dolores Huerta, President, Dolores Huerta Foundation; Marisa Diaz, Staff Attorney, Christopher Ho, Senior Staff Attorney, Stacy Villalobos, Skadden Fellow, Legal Aid at Work; Joann Lee, Directing Attorney, Legal Aid Foundation of Los Angeles; Jill E. Sowards, Staff Attorney, Legal Services of Northern California; Jordan Thierry, Senior Program Associate, PolicyLink.

Note: The CDE sent a letter on September 1, 2017, in response to this public comment. This response is included in Attachment 4b.

- Attachment 4c: Cynthia Rice, Director of Litigation Advocacy and Training, California Rural Legal Assistance, Inc.; Deborah Escobedo, Senior Attorney, Racial Justice-Education, Lawyer’s Committee for Civil Rights of the San Francisco Bay Area; Shelly Spiegel-Coleman, Executive Director, Californians Together; Jan Gustafson-Corea, Chief Executive Officer, California Association for Bilingual Education; Joann Lee, Directing Attorney, Legal Aid Foundation of...
Los Angeles; Abigail Trillin, Executive Director, Legal Services for Children; Barbara Flores, President, California Latino School Boards Association

Attachment 4d: Jorge Cuevas Antillón, College of Education, San Diego State University

Attachment 4e: Jessica Murray, English Learner Instructional Resource Teacher (Secondary), Santa Cruz City Schools

Attachment 4f: David Dolson, Former Administrator, California Department of Education

Attachment 4g: Mary Perry, Vice-President for Education, California State Parent-Teachers Association (Added comments to form letter referenced below)

Attachment 4i: Liz Guillian, Director of Legislative & Community Affairs, Public Advocates

FORM LETTER (Attachment 4h) – 12 COMMENTS
• Anya Hurwitz
• Arturo Ybarra, Executive Director, Watts/Century Latino Organization
• Vanessa Calderon-Garcia, State Seal of Biliteracy District Coordinator and Learning Design Coach, Oxnard Union High School District
• Hugo Morales, Radio Bilingüe, Inc.
• Cheryl Ortega, Director of Bilingual Education, United Teachers Los Angeles
• Daniel Ward, Editor, Language Magazine
• Claudia Lockwood
• Veronika Lopez-Mendez, Principal, Rosa Parks Elementary
• Xilonin Cruz-Gonzalez, Azusa USD Board of Education Vice-President
• Vicki Ramos Harris
• Carla Herrera, Retired Bilingual Educator, Two-Way Immersion Specialist and Consultant
• Martha Hernandez

Changes to the text:

General changes were made to the regulations to include grammatical edits, and renumbering and/or re-lettering to reflect deletions or additions.

After the 45-day comment period, the following changes were made to the proposed text of the regulations and sent out for a 15-day comment period:

Current title of Chapter 11, Subchapter 4 is amended from “English Language Learner Education” to “Multilingual and English Learner Education.” “Multilingual” is
added to include the types of programs available under California *Education Code (EC)* sections 305, 306, and 310 (other than Structured English Immersion [SEI]). The word “Language” is deleted from “English Language Learners” to align the title with the term “English learner” used in the statute.

**Proposed Section 11300(a)** is amended to reword the section, including replacing “protected time” with “time set aside during the regular school day.” This change is necessary to specify when and how Designated English Language Development instruction is carried out.

**Proposed Section 11300(d)** is amended to add language to the definition of “language acquisition programs.” The new language specifically names the language acquisition programs described in the statute. This addition is necessary to align the definition to the definition of language acquisition programs in *EC* Section 306(c).

**Proposed Section 11300(h)** is added to provide a definition of “multilingual.” This definition is necessary to clarify the use of the term in these regulations.

**Former Proposed Section 11300(m)** is deleted. Structured English Immersion is defined in *EC* Section 306(c)(3), therefore is not necessary in regulations.

**Proposed Sections 11301(a) and (c)** are amended to add “if applicable” after “English Learner parent advisory committee.” This change is necessary to align the language in this section with *EC* Section 52062.

**Proposed Section 11309(c)(3)(A)** is amended to replace “if applicable, another” with “when the program model includes instruction in another language, proficiency in that other.” This change is necessary to clarify that proficiency in another language applies when a student participates in a language acquisition program designed for that purpose.

**Proposed Section 11309(c)(3)(B)** is amended to replace “if applicable” with “when the program model includes instruction in another language, achievement in that other.” This change is necessary to clarify that academic achievement in another language applies when a student participates in a language acquisition program designed for that purpose.

**Proposed Section 11309(d)** is amended to add language regarding the inclusion of Designated and Integrated English Language Development (ELD) in an SEI program. This addition emphasizes that SEI is a fully articulated language acquisition program, with the same services required for English learners as any other language acquisition program.

**Proposed Section 11309(e)** is amended to delete “in addition to SEI.” The deleted language is not necessary for the purposes of the section, which is to specify that a
language acquisition program may serve both English learners and native speakers of English.

**Proposed Section 11310(a)** is amended to delete “any,” and replace “provided by” with “available in.” The change does not modify the meaning of the section.

**Proposed Section 11310(b)(2)** is amended to add “when the program model includes instruction in another language.” This addition is necessary to specify that the description must identify the additional language of instruction when the program design includes an additional language of instruction.

**Proposed Section 11310(b)(4)** is added to require that the notice include a description of the process for parents to request to establish a new language acquisition program at a school. This is necessary to ensure parents know how to request a new language acquisition program pursuant to EC Section 310.

**Proposed Section 11311** amends the title of this section to replace “for” with “to establish a.” This modification is necessary to designate that the purpose of this section is to address parent requests to establish a new language acquisition program, rather than choosing a program that already exists.

**Proposed Section 11311(a)** is amended to add “a” and replace “provided” with “available.” These changes bring this section into alignment with the title of this section and language changes in section 11310 of these regulations.

**Proposed Section 11311(f), formerly (i),** is amended to replace “may” with “shall,” and adds “for a multilingual program model.” The changes are necessary to clarify to local educational agencies (LEA) that all parent requests count toward reaching the stated thresholds in cases where the requested program model goal is multilingualism.

**Proposed Section 11311(h), formerly (g),** is amended to remove the word “immediately.” This time requirement for a LEA to notify parents that a threshold has been met has been moved to section 11312(h)(1).

**Proposed Section 11311(h)(1), formerly (g)(1),** is amended to require that LEAs notify parents, teachers, and administrators “within 10 school days” of a threshold being reached. This change is necessary to provide a specified time within which LEAs must provide the required notification.

**Proposed Section 11311(h)(2), formerly (g)(2),** is amended to include “costs and” and “any new” to the language in this section. These additions provide further specificity on what an LEA is expected to include in their assessment for possible implementation of a language acquisition program or language program.
Proposed Section 11311(h)(3), formerly (g)(3), is amended to replace “90” with “60” calendar days, reducing the number of days for an LEA to determine whether it is possible to implement the requested language acquisition program. This regulation is necessary to ensure LEAs respond to parent requests in a timely manner.

Proposed Section 11311(h)(3)(B), formerly (g)(3)(B), is amended to require that the explanation of why it is not possible to implement a language acquisition program requested by parents is provided by the LEA in written form. This addition is necessary to maintain transparency regarding the process of responding to parent requests for a language acquisition program.

Proposed Section 11316 is amended to delete an incorrect citation.

ALTERNATIVES DETERMINATION

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

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local educational agencies.

10-30-2017 [California Department of Education]
<table>
<thead>
<tr>
<th>Proposed Section</th>
<th>Commenter</th>
<th>Comment/Recommendation</th>
<th>Agency Response</th>
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| All              | Deborah Escobedo, et al. See Attachment 4b | **Procedural Objections**  
See Attachments 4b and 4i.  
**Recommendation:**  
We recommend that the full regulatory packet be translated and posted and that a new notice period be voted on and approved at the September 11, 2017 meeting of the State Board of Education. | REJECT  
This comment does not address the content of the regulations but focuses on the process. The California Department of Education (CDE) is not required to provide translated documents under the Administrative Procedures Act. The CDE provided a Spanish translation of the proposed regulations as a courtesy to the public. (Letter of response from the California Department of Education included in Attachment 4b) |
| 11300            | Jessica Murray See Attachment 4e | The proposed addition and language in Parts a), b), d), and e) of the definitions, which define Designated ELD, Integrated ELD, and Language Acquisition Programs versus Language Programs are clear and well-stated. They are excellent additions to our state laws and regulations. | **NO ACTION REQUIRED**  
This comment is a statement and does not provide suggestions for changes. |
| 11300            | Jorge Cuevas Antillón See Attachment 4d | Commenter provided a copy of the regulations in “track changes” with the suggested acronyms listed below.  
**Recommendations:**  
(a) “Designated English Language Development (D-ELD)” means instruction provided during a protected time during the regular school day, in which there is a focus on state-adopted English language development (ELD) standards to assist English learners to develop critical English language skills necessary for academic content learning in English.  
(b) “English learner parent advisory committee,” means the committee established by a school district. | REJECT  
The comments do not address the content of the regulations. The use of acronyms does not provide additional clarity. |
or county superintendent of schools pursuant to Education Code sections 52063 and 52069, and Title 5 California Code of Regulations section 15495(b).
(c) "Integrated English Language Development (I-ELD)" means instruction in which the state-adopted ELD standards are used in tandem with the state-adopted academic content standards. Integrated ELD includes specially designed academic instruction in English.
(d) “Language Acquisition Programs (LAPs)” are educational programs designed for English learners to ensure English acquisition as rapidly and effectively as possible, that provide instruction to these pupils on the state-adopted academic content and ELD standards through Integrated and Designated ELD, and that meet the requirements described in section 11309 of this subchapter.
(h) “Parent advisory committee (PAC)” means a committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063 or 50269.
(l) “State-adopted English language development (ELD) standards” means standards adopted pursuant to Education Code section 60811.
(m) “Structured English Immersion (SEI)” means a Language Acquisition Program, where nearly all instruction is provided in English, with a curriculum and presentation designed for pupils who are learning English.
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| 11300 | Cynthia Rice, et al. See Attachment 4c | **Section 11300** should include a definition of English learner. It is clear that the underlying intent was to adopt the definition of English learner found under federal law. 
**Recommendation:**
Add this definition:
**An English learner is an individual:**
(A) who is aged 3 through 21;  
(B) who is enrolled or preparing to enroll in an elementary school or secondary school;  
(C)(i) who was not born in the United States or whose native language is a language other than English;  
(ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and  
(II) who comes from an environment where a language other than English has had a significant impact on the individual’s level of English language proficiency; or  
(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and  
(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—  
(i) the ability to meet the challenging state academic standards; | REJECT  
The definition of English learner cited in California Education Code (EC) Section 306(a) refers to the definition of English learner found in the statute under No Child Left Behind. This definition is no longer current under federal law, which will be addressed through the legislative process. |
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<tr>
<td>11300(a)</td>
<td>Mary Perry See Attachment 4g</td>
<td>(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or (iii) the opportunity to participate fully in society. According to the CA current State Plan the above definition is found under the federal “Every Student Succeeds Act”</td>
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<td>On Page 1, line 16 there is a reference to “protected time” during the regular school day in which there is a focus on state adopted English language development (ELD) standards to assist English learners. However, “protected time” is not defined. <strong>Recommendation:</strong> PTA recommends that the CDE and State Board define “protected time” in further detail within the regulations that allows for public comment. Otherwise, teachers and parents will not know what to expect nor anticipate for each English learner in terms of their rights and access to ELD.</td>
<td><strong>ACCEPT</strong> The definition for Designated English Language Development is modified to replace “protected time” with descriptive language that addresses the commenter’s concerns.</td>
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<tr>
<td>11300(b)</td>
<td>Cynthia Rice, et al. See Attachment 4c Martha Zaragoza-</td>
<td>Commenters suggest that “The definition of &quot;English Learner Parent Advisory Committee must be expanded so that it is consistent with current law.” <strong>Recommendation:</strong> (b) &quot;English learner parent advisory committee&quot;, means the committee established by a school district or county superintendent of schools pursuant to</td>
<td><strong>REJECT</strong> The proposed regulations are consistent with the requirements of EC sections 305, 306, 310, 52063, and 52069. Proposed section 11301(b) suggests methods for engaging stakeholders [defined in proposed section 11300(k)], school advisory committees, or other</td>
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<tr>
<td>11300(d)</td>
<td>Diaz</td>
<td>See Attachment 4a</td>
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<td></td>
<td>Liz Guillen</td>
<td>See Attachment 4i</td>
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<td><strong>Education Code sections 52063 and 52069, 52176(b) and (c), 62002.5 and 64001(a) and Title 5 California Code of Regulations sections 11308 and 15495(b).</strong></td>
<td>groups representing stakeholders.</td>
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<td>11300(d)</td>
<td>Cynthia Rice, et al.</td>
<td>See Attachment 4c</td>
<td><strong>ACCEPT (in part)</strong></td>
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<td></td>
<td>Martha Zaragoza-Diaz</td>
<td>See Attachment 4a</td>
<td><strong>REJECT (in part)</strong></td>
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</table>
|                  | Liz Guillen | See Attachment 4i | **ACCEPT (in part)** | **Recommendation:**
<p>|                  |           | “Language acquisition programs” are educational programs designed for English learners to ensure English acquisition as rapidly and effectively as possible for English learners, that provide instruction to these pupils on the state-adopted academic content and ELD standards through Integrated and Designated ELD, and shall lead to grade level proficiency and academic achievement in both English and another language. Such programs include, but are not limited to: dual-language immersion, transitional or developmental programs for English learners, and Structured English Immersion. Such programs that shall meet the requirements described in section 11309 of this subchapter. |
| 11300(d)         | Cynthia Rice, et al. | The proposed definition of &quot;language acquisition program&quot; is inconsistent with Education Code section 306. | <strong>ACCEPT (in part)</strong> | The definition of Structured English Immersion is |</p>
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| former 11300(m)  | See Attachment 4c | 306. This section narrows the definition of “language acquisition programs” by suggesting that such programs focus solely through English Language Development. It makes no mention of academic instruction in languages other than English or the CA Ed.G.E. goal of “grade level proficiency and academic achievement in both English and another language.” It appears that by providing a definition for SEI and ignoring the others, the purpose was to elevate SEI programs to a status that was not intended by, and is in fact at odds with, CA Ed.G.E. Definitions should include Dual Language Immersion, Transitional and Developmental Language Acquisition Programs. The definitions must define all language acquisition programs not just Structured English Immersion. **Recommendation:** Add the two following definitions:  
**Dual-language immersion programs provide integrated language learning and academic instruction for native speakers of English and native speakers of another language, with the goals of high academic achievement, first and second language proficiency, and cross-cultural understanding.**  
**Transitional or developmental programs for English learners that provide instruction to pupils that utilizes English and a pupil’s native language for literacy and academic instruction and enables an English learner to achieve English proficiency.** | deleted from the former proposed section 11300(m) because it is already provided in EC Section 306(c). **REJECT** (in part) The suggested definitions are provided in EC Section 306(c), therefore, not necessary in regulations. |
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| 11300(d) and (e) | Cynthia Rice, et al. See Attachment 4c | Definitions: The proposed definition of "language acquisition program" is inconsistent with Education Code section 306. (Language programs) According to the ISR, this separate definition is needed to "distinguish between “language acquisition programs” and “language programs”.
(see letter p. 8/15) The definition is confusing and creates a new category of “language program” not referenced in the CA Ed.G.E. and is inconsistent with Education Code section 306(c). CA Ed. G. E. only specifies language acquisition programs and that definition includes “The language acquisition programs provided to pupils shall be informed by research and shall lead to grade level proficiency and academic achievement in both English and another language.” This language should be included in the regulations and the language program should be deleted. | REJECT The proposed definitions of “language acquisition programs” and “language programs” are consistent with EC sections 300, 305, 306, and 310. The provisions of the statute are required for “language acquisition programs” and encouraged for “language programs.” |

<p>| | Martha Zaragoza-Diaz See Attachment 4a | REJECT The proposed definitions of “language acquisition programs” and “language programs” are consistent with EC sections 300, 305, 306, and 310. The provisions of the statute are required for “language acquisition programs” and encouraged for “language programs.” |
| | Form Letter See Attachment 4h | REJECT The proposed definitions of “language acquisition programs” and “language programs” are consistent with EC sections 300, 305, 306, and 310. The provisions of the statute are required for “language acquisition programs” and encouraged for “language programs.” |
| | Liz Guillen See Attachment 4i | REJECT The proposed definitions of “language acquisition programs” and “language programs” are consistent with EC sections 300, 305, 306, and 310. The provisions of the statute are required for “language acquisition programs” and encouraged for “language programs.” |</p>
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<td>11300(e) 11300(h) 11311(f)</td>
<td>Jorge Cuevas Antillón See Attachment 4d</td>
<td>academic content and ELD standards through Integrated and Designated ELD, and shall lead to grade level proficiency and academic achievement in both English and another language. Such programs include, but are not limited to: dual-language immersion, transitional or developmental programs for English learners, and Structured English Immersion. Such programs that shall meet the requirements described in section 11309 of this subchapter. Commenter provided a copy of the regulations in “track changes” with the recommendations below. Commenter also requests that “Dual Language Immersion, Transitional and Developmental Language Acquisition Programs be defined.” Recommendation: (e) <strong>Multilingual Language Programs (MLPs)</strong> are Language Acquisition Programs that are designed to provide opportunities for pupils to be instructed in languages other than English to a degree sufficient to produce proficiency in those languages, consistent with the provisions of Education Code section 305, subdivision (c). <strong>Multilingual Programs include Dual Language Immersion, Transitional and Developmental Language Acquisition Programs.</strong></td>
<td>ACCEPT (in part) The term “multilingual” is incorporated into the current title of Chapter 11, Subchapter 4. The proposed subchapter is now titled “Multilingual and English Learner Education.” Proposed section 11300(h) defines the term “multilingual,” and proposed section 11311(f) incorporates the same term to describe some program models as “multilingual.” REJECT (in part) The recommendation as written is not consistent with EC sections 305(c) or 306.</td>
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<tr>
<td>11300(i)</td>
<td>Jorge</td>
<td>Recommendation:</td>
<td>REJECT</td>
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<td>Proposed Section</td>
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<td><strong>Cuevas Antillón</strong>&lt;br&gt;See Attachment 4d</td>
<td>(i) <strong>“Parents” means the natural or adoptive parents, legal guardians, or other caretakers persons holding the right to make educational decisions for the pupil pursuant to Welfare and Institutions Code section 361 or 727, or Education Code section 56028 or 56055, including foster parents who hold rights to make educational decisions.</strong></td>
<td>The current language sufficiently addresses any person who holds legal rights to make educational decisions for a child.</td>
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<tr>
<td>11300(k)</td>
<td><strong>Mary Perry</strong>&lt;br&gt;See Attachment 4g</td>
<td>On Page 2, line 15 “Stakeholders” means parents, pupils, teachers, administrators, other school personnel, and interested members of the public. <strong>Recommendation:</strong> PTA recommends inserting “and families” after parents. We would make the same recommendation throughout the regulations wherever “parents” are referenced.</td>
<td>REJECT The current language sufficiently addresses any person who holds legal rights to make educational decisions for a child. The use of “parents” in the remaining regulations is consistent with the statute.</td>
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<tr>
<td>11301</td>
<td><strong>Form Letter</strong>&lt;br&gt;See Attachment 4h</td>
<td>The definition of Parent Engagement must include and go beyond the advice of the English Learner Advisory Committee. The LCAP process for parent engagement is an outreach to all parents not just advisory committees. In addition, the language acquisition programs are for English Learners and parents of native English speakers. Only consulting the LCAP English Learner Advisory Committee does not include engagement of all parents and is a very limited definition for engagement in the process of establishing language acquisition programs.</td>
<td>REJECT The proposed regulations are consistent with the requirements of EC sections 305, 306, 310, 52063, and 52069. Proposed section 11301(b) suggests methods for engaging stakeholders [defined in proposed section 11300(k)], school advisory committees, or other groups representing stakeholders.</td>
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<td>11301</td>
<td><strong>Mary Perry</strong>&lt;br&gt;See</td>
<td><strong>Recommendation:</strong> On Page 3 beginning on line 18 amend to read:</td>
<td>REJECT The proposed regulations are consistent with the</td>
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<td>11301</td>
<td>Attachment 4g</td>
<td>(a) As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English learner parent advisory committee and the parent advisory committee, and other parent and family organizations on school sites including but not limited to the Parent Teacher Association, school site councils, and other groups, regarding the LEA's existing language acquisition programs and language programs, and establishing other such programs.</td>
<td>requirements of EC sections 305, 306, 310, 52063, and 52069. Proposed section 11301(b) suggests methods for engaging stakeholders [defined in proposed section 11300(k)], school advisory committees, or other groups representing stakeholders.</td>
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<td>Cynthia Rice, et al.</td>
<td>Section 11301 fails to adequately reflect the new requirements imposed on districts regarding the development of language acquisition programs during the LCAP process. <strong>Recommendation:</strong> As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English learner parent advisory committee and the parent advisory committee, regarding the LEA’s existing language acquisition programs and language programs, and establishing other such programs including dual language immersion programs, transitional or developmental programs, and Structured English Immersion programs.</td>
<td><strong>REJECT</strong> The recommended language refers to language acquisition programs already included in the statute and in proposed section 11300(d), which defines “language acquisition programs.” To avoid duplication, the recommended language is not included.</td>
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<td></td>
<td>Martha Zaragoza-Diaz</td>
<td>Sec. 11301 does not adequately reflect the changes to Educ. Code §§ 305 and 306 intended to provide notice about access to three programs:</td>
<td><strong>REJECT</strong> This comment references EC sections 305 and 306 and proposed Section 11301 (community...</td>
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<td>Sec. 11301</td>
<td>Liz Guillen</td>
<td>“dual-language immersion programs,” “transitional or developmental programs,” and “Structured English Immersion programs.” Sec. 11301 does not include reference to these three programs. Instead, it requires input on “existing language acquisition programs.” The regulations must provide effective notice to parents and others what types of programs may be available.</td>
<td>REJECT Proposed Section 11301 is consistent with the requirements of EC sections 305, 306, 310, 52063, and 52069. Much of this comment addresses matter outside the content of the proposed regulations.</td>
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<tr>
<td>Sec. 11301</td>
<td>Jorge Cuevas Antillón</td>
<td>Sec. 11301 regarding Community Engagement should provide more explicit guidance for capturing in the LCAP input and requests received during the LCAP stakeholder engagement process, as well as through other avenues. The LCAP engagement process, now in its fifth year, has left many community stakeholders dissatisfied that they were heard, much less listened to. We recommend that the LCAP template be reviewed to address this opportunity of providing greater transparency about rights under Proposition 58.</td>
<td>ACCEPT (in part) The term “multilingual” is incorporated into the current title of Chapter 11, Subchapter 4. The proposed subchapter is now titled “Multilingual and English Learner Education.” Proposed section 11300(h) defines the term “multilingual,” and proposed section 11311(f) incorporates the same term to describe some program models as “multilingual.”</td>
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Note: The table above summarizes the comments and recommendations related to proposed sections of the regulations, along with the agency's responses. The comments focus on community engagement, notice requirements, and the inclusion of specific language acquisition programs. The agency responses address the consistency of the proposed sections with existing requirements and the need for further clarity and transparency.
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<td>11301, 11309, and 11311</td>
<td>Cynthia Rice, et al. See Attachment 4c</td>
<td><strong>language programs, and establishing other such programs.</strong></td>
<td><strong>REJECT</strong> (in part)</td>
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<td></td>
<td>Martha Zaragoza-Diaz See Attachment 4a</td>
<td>The proposed regulations should facilitate broader stakeholder engagement in the creation of language acquisition programs. The purpose of 11309 is to “connect Ed Code sections 305 and 306 with federal obligations for the creation, implementation and evaluation of language acquisition programs for English learners. The obligations detailed in that section are supported by 20 USC section 1703.” Largely, these obligations are exactly in keeping with the goals of CA Ed.G.E., but more could be done to encourage stakeholder engagement. In light of California’s strengthened commitment to local control and stakeholder engagement in the school funding and planning processes, proposed sections 11301 and 11311 should be amended to require more robust stakeholder engagement and feedback for the development of language acquisition programs.</td>
<td><strong>REJECT</strong></td>
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The comments do not address the content of the regulations. The use of acronyms does not provide additional clarity.

The recommended edits to the program titles are not consistent with EC sections 305 or 306, therefore, not included in this section.

The proposed regulations are consistent with the requirements of EC sections 305, 306, 310, 52063, and 52069.

Proposed section 11301(b) suggests methods for engaging stakeholders [defined in proposed section 11300(k)], school advisory committees, or other groups representing stakeholders.
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<td>11309</td>
<td>David Dolson</td>
<td>The amendment to Section 11309 addresses the need to ensure that schools offer instruction in the language other than English which is differentiated to the individual needs of second language learners (English-speakers in this instance) and native speakers of that language. <strong>Recommendation:</strong> <em>(d) When instruction is provided in and through a language other than English, such instruction shall be based on the assessed individual needs of the native speakers of English and the native speakers of the other language.</em></td>
<td>REJECT The recommended language is beyond the scope of the statute and unnecessarily prescriptive given the provisions of proposed section 11309(c)(3)(B).</td>
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<td>11310(a)</td>
<td>Mary Perry</td>
<td>Parental Notice <strong>Recommendation:</strong> Page 6, lines 31 and 32 amend to read: ....The notice specified in this section shall include a description of the process for parents and families, along with the timeline and deadlines, to request a language acquisition program or language program for their child.</td>
<td>REJECT The term “parents” is defined in proposed section 11300(j), and sufficiently addresses any person who holds legal rights to make educational decisions for a child, including the ability to request a desired language acquisition program. EC Section 310 provides parents the opportunity to choose a program that best suits their child from the available programs, or to request a new language acquisition program at a school site. This provision is open-ended, meaning that there are no timelines imposed upon parents as to when they may submit their choices or requests.</td>
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<tr>
<td>11310</td>
<td>Form Letter</td>
<td>Parent Notification There needs to be clarification that notification determining the language acquisition programs are for all parents to enroll their children. <strong>Proposed sections 11310(a) and 11311(a) specify “parents,” which is an inclusive term.</strong></td>
<td>REJECT</td>
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<td>Proposed Section</td>
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<td><strong>11311</strong></td>
<td>Jorge Cuevas Antillón See Attachment 4d</td>
<td><strong>Recommendation:</strong>&lt;br&gt;All notifications should be available in the languages spoken at that school.</td>
<td>Current 5 CCR section 11316 requires that all notices be provided in English and the parents’ primary language, to the extent required under EC Section 48985. To avoid duplication, the recommended language is not included in proposed section 11310.</td>
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<td><strong>Recommendation:</strong>&lt;br&gt;(a) An LEA shall define and name language acquisition programs available per site via information easily accessible to the public. Additionally, the LEA shall establish a process for schools of the LEA to receive and respond to requests from parents of pupils enrolled in the school to establish language acquisition programs other than, or in addition to, such programs already provided at the school.&lt;br&gt;(c) Each school shall assist parents in clarifying requests, such as program type, as needed.&lt;br&gt;(e) A parent whose pupil is enrolled in a school for attendance in the next school year may submit a request for a particular language acquisition program.&lt;br&gt;(f) Each school shall monitor the number of parent requests for any language acquisition programs on a regular basis, and notify the LEA immediately upon reaching a threshold specified in subdivision (g).&lt;br&gt;(g) When the parents of 30 pupils or more enrolled in a school, or when the parents of 20 pupils or more in the same grade level enrolled in a school, request the same or substantially similar type of a language acquisition program, the LEA shall respond by</td>
<td><strong>ACCEPT</strong> (in part)&lt;br&gt;The recommended language for proposed section 11311(h)(1), formerly (g)(1), is incorporated with modifications.&lt;br&gt;The current language in proposed sections 11310 and 11311 is adequate to accomplish the purpose of the recommended language in proposed sections 11311(a), (c), (e), and (f), formerly (i).</td>
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| 11311            | Cynthia Rice, et al. See Attachment 4c, Martha Zaragoza-Diaz See Attachment 4a | immediately taking the following actions:  
(1) Notify the parents of pupils attending the school, the school’s teachers, and administrators, in writing, of the parents’ requests for a language acquisition program, including formal notification to the LEA ELPAC and PAC;  
(2) Identify costs and resources necessary to implement any new language acquisition program, including but not limited to certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals; and | ACCEPT (in part)  
Proposed section 11311(h)(3)(B) is modified to require that an local educational agency (LEA) provide a written explanation of the reasons why a language acquisition program will not be implemented. This requirement provides documentation for parents to approach the local governing board with possible concerns regarding such a determination, if so desired.  
REJECT  
EC sections 305, 306, and 310 do not provide for a formal appeal process regarding the implementation of a requested language acquisition program. |
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| 11311            | Cynthia Rice, et al.  
See Attachment 4c  
Martha Zaragoza-Diaz  
See Attachment 4a | The proposed regulations governing a school district’s decision on parental requests for a new language acquisition program should be strengthened to improve notice and avoid delay.  
The regulation should make clear the fact that a district must implement requested programs, to the extent possible.  
Given the language of the Initiative, the burden is on the school district to justify why parental requests for a particular language acquisition program will not be honored when the numerical triggers have been met.  
Clarification of the circumstances under which a district may deny a request is critical to the uniform implementation of the requirements.  
**Recommendation:**  
Add to section 11311 as new subsection:  
(a) An LEA shall establish and allow enrollment in any language acquisition program requested by parents in accordance with Education Code section 310, to the extent possible.  
Add language explaining how "resources necessary" will be used in determining that it is possible or not possible to implement programs requested by parents. | ACCEPT (in part)  
Proposed section 11311(h)(3)(B) is modified to require that an LEA provide a written explanation of the reasons why a language acquisition program will not be implemented. This requirement provides documentation for parents to approach the local governing board with possible concerns regarding such a determination, if so desired.  
REJECT (in part)  
Proposed section 11311 provides LEAs with the process to determine, through an analysis of costs and resources, the extent to which it is possible to establish the requested language acquisition program. |
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<td>11311(h)</td>
<td>Form Letter See Attachment 4h</td>
<td>Procedures, Timeliness and Appeal Process. The timeline of 90 calendar days for a school to determine whether or not it is practicable to offer such a program is too long, could cause a year delay in program implementation and discourage parents to continue with their request. <strong>Recommendation:</strong> This period should not exceed 20-30 days. In the event the school decides it is not able to offer the program, there needs to be an appeal process delineated in the regulations.</td>
<td>ACCEPT (in part) The timeline for an LEA to determine whether it is possible to offer a requested language acquisition program at a school has been reduced to 60 calendar days. This timeline applies only to parent requests to establish a program not already offered at a school. Proposed section 11311(h)(3)(B) is modified to require that an LEA provide a written explanation of the reasons why a language acquisition program will not be implemented. This requirement provides documentation for parents to approach the local governing board with possible concerns regarding such a determination, if so desired.</td>
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<td>Liz Guillen See Attachment 4i</td>
<td><strong>REJECT</strong> (in part) The decision to implement a new language acquisition program is based, in part, determining whether it is possible to implement the requested program by conducting an analysis of costs involved and available resources to support the implementation of a requested language acquisition program. The time period also includes the creation of a timeline for implementation. Sufficient time must be allocated for LEAs to complete their “due diligence” before arriving at a decision to implement a requested language acquisition program. <strong>EC</strong> sections 305, 306, and 310 do not provide for a formal appeal process regarding the implementation of a requested language acquisition program.</td>
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<tr>
<td>11311(h)</td>
<td>David Dolson</td>
<td>The amendment to Section 11311 addresses the reality that implementation of a requested language acquisition program can be denied or significantly delayed by a school for a broad number of reasons and parents have no statutorily defined recourse. When such programs are denied or significantly delayed by a school, parents should be provided, whenever possible, with the option to enroll pupils in a requested program at another school. <strong>Recommendation:</strong> (B) In the case where the LEA determines it is not possible to implement a language acquisition program requested by parents, the LEA shall provide an explanation of the reason(s) the program cannot be provided, and shall take reasonable steps to offer a suitable alternate option that can be implemented at the school as well as enrollment of pupils in the requested language acquisition option at another school in the LEA.</td>
<td>ACCEPT (in part) Proposed section 11311(h)(3)(B) is modified to require that an LEA provide a written explanation of the reasons why a language acquisition program will not be implemented. This requirement provides documentation for parents to approach the local governing board with possible concerns regarding such a determination, if so desired. REJECT (in part) The recommended language has already been addressed in proposed section 11311(i).</td>
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<tr>
<td>11311(h)</td>
<td>Cynthia Rice, et al.</td>
<td>The regulations should clarify and strengthen the type and form of notice required when a school district denies a parental request for a language acquisition program. <strong>Recommendation:</strong> Apply the type of language used for denial of waivers in the regulations for Prop 227, including a full written</td>
<td>ACCEPT (in part) Proposed section 11311(h)(3)(B) is modified to require that an LEA provide a written explanation of the reasons why a language acquisition program will not be implemented. This requirement provides documentation for parents to approach the local governing board with possible concerns regarding such a determination, if so desired.</td>
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<td>Martha Zaragoza-</td>
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<td><strong>Diaz</strong>&lt;br&gt;See Attachment 4a</td>
<td>explanation for denial so parents can challenge a denial if they do not agree.</td>
<td>REJECT (in part)&lt;br&gt;Application of the type of language in the regulations for Proposition 227 is not consistent with EC sections 305 and 310.</td>
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<td><strong>11311(h)</strong>&lt;br&gt;Cynthia Rice, et al.&lt;br&gt;See Attachment 4c&lt;br&gt;Martha Zaragoza-Diaz&lt;br&gt;See Attachment 4a</td>
<td>A response time of 90 days to act on parental requests encourages needless delay.&lt;br&gt;&lt;br&gt;<strong>Recommendation:</strong>&lt;br&gt;The regulations should be revised to include a requirement that the district notifying the requesting parent within 5 school days about whether the requested program is currently available, or whether the trigger for such program has or has not been reached. Districts should have to similarly advise requesting parents within five school days after the threshold is met if that occurs at a later time.&lt;br&gt;&lt;br&gt;Finally, the time within which the district must determine whether it is possible to implement the requested language acquisition program and provide notice, in writing, to parents of pupils attending the school, the school’s teachers, and administrators, of its determination should be reduced to 30 days.</td>
<td>Notification of Available Programs&lt;br&gt;REJECT&lt;br&gt;EC Section 310(b)(2) requires notice to all parents on the types of programs available in the district. The process for this notice is outlined in proposed section 11310.</td>
<td>Notification That Threshold Has Been Reached&lt;br&gt;ACCEPT&lt;br&gt;The timeline requiring notification when the parent request threshold has been met at a school is modified to 10 school days in proposed section 11311(h)(1). The term “immediately” is deleted from 11311(h). This change creates a finite timeline in which LEAs are responsible to provide the required notification.</td>
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<td>11311 (i)</td>
<td>Cynthia Rice, et al. See Attachment 4c Martha Zaragoza-Diaz See Attachment 4a</td>
<td>Proposed regulation section 11311(i) is inconsistent with Education Code section 310. (Making a distinction between parents of EL students and parents of native English speakers as regards the requests for a language acquisition program.) <strong>Recommendation:</strong> Proposed section 11311(i) should read as follows: (i) A school <em>may shall</em> consider requests from parents of pupils enrolled in the school who are native speakers of English when determining whether a threshold specified in subdivision (g) is reached.</td>
<td><strong>ACCEPT</strong> Proposed section 11311(f), formerly (i), is amended to replace the term “may” with “shall.”</td>
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<td>11316</td>
<td>Cynthia</td>
<td>Section 11316 should be clarified to ensure that</td>
<td><strong>REJECT</strong></td>
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REJECT (in part)
The decision to implement a new language acquisition program is based on having reached the required threshold of parent requests for a language acquisition program, and determining if it is possible to implement the requested program by conducting an analysis of costs involved and available resources to support the implementation of a requested language acquisition program. The time period also includes the creation of a timeline for implementation. Sufficient time must be allocated for LEAs to complete their “due diligence” before arriving at a decision to implement a requested language acquisition program.
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<td>Rice, et al.</td>
<td>Notice is provided in the primary language whenever practicable. <strong>Recommendation:</strong> § 11316. Language of Parental Notice to Parents or Guardians. All notices and other communications to parents or guardians required or permitted by these regulations must be provided in English and in the parents' or guardians' primary language unless provision of such notice is impracticable, to the extent required under Education Code section 48985.</td>
<td>Current section 11316 is consistent with EC Section 48985.</td>
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Martha Zaragoza-Diaz
See Attachment 4a

Liz Guillen
See Attachment 4i

10-30-17 California Department of Education
I am here today representing the California Association for Bilingual Education and the Californians Together Coalition.

We welcome the opportunity to provide input to regulations promoting the development of multilingual skills. The California for a Global Economy Initiative (CA.Ed.G.E.) recognizes that multilingual learning is beneficial for all students. The intent of the Initiative is to provide an opportunity for all students to develop skills that lead to their proficiency in English and another language and to ensure that school districts meet the obligation to ensure that English learners obtain proficiency in English and reach at least grade level proficiency in academic achievement.

Outlined below are our comments and recommendations which we believe will bring additional clarity and direction to the proposed regulations. We hope they will be seriously considered in modifying the proposed Title V regulations specific to the California for a Global Economy Initiative.

Comments and Recommendations

a) **Section 11300 Definitions.** The proposed regulations fail to include definitions for two specific programs included in law [Education Code sections 306 © (1) & (2)]; dual-language immersion, transitional or development programs for English learner students or any program that would ensure "academic achievement in both English and another language". Excluding these definitions suggests that districts may rely on Sheltered English Immersion (SEI) programs alone, or make it a preferred program and still fulfill their obligations under the law. This is not the case and is exactly why CA Ed.G.E. was introduced and was designed to change.
Recommendations:
b) Proposed Section 11300 (d) should be amended to read as follows: "Language Acquisition programs" are educational programs designed to ensure English language acquisition as rapidly and effectively as possible for English learners, that provide instruction to pupils on the state-adopted academic content and ELD standards through Integrated and Designated ELD, and shall lead to grade level proficiency and academic achievement in both English and another language. Such programs include, but are not limited to: dual-language immersion, transitional or developmental programs for English learners, and Structured English Immersion. Such programs shall meet the requirements described in section 11309 of this subchapter.
c) Proposed regulation 11300 should be amended to include the definitions for both dual-language immersion programs and transitional/developmental programs for EL students:

"(n) Dual-language immersion programs means a language acquisition program that provides integrated language learning and academic instruction for native speakers of English and native speakers of another language, with goals of high academic achievement, first and second language proficiency, and cross-cultural understanding.
(o) Transitional or developmental programs for English learners means language acquisition programs that provide instruction to pupils that utilizes English and a pupil's native language for literacy and academic instruction and enables an English learner to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, in order to meet state-adopted academic content standards."

2) Section 11300 (d) Definitions. The definition of "Language Acquisition Programs" is confusing and creates a new category of "Language Program" not referenced in the CA.Ed.G.E and is inconsistent with Education Code section 306. Contrary to Education Code section 306© the proposed regulations narrow the definition of language acquisition programs focus solely on English acquisition and content instruction solely through English language development (ELD). It makes no mention of academic instruction in languages other than English or the CA Ed.G.E. goal of "grade level proficiency and academic achievement in both English and another language". As stated in (1) above, the proposed definition even fails to mention and fails to define, dual-language immersion programs or transitional/developmental programs for EL or any program that would ensure "academic achievement in both English and another language."

Recommendation: The proposed regulation 11300 (d) should be amended to read as follows: 'Language acquisition programs are educational designed to ensure English acquisition as rapidly and effectively as possible for
English learners, that provide instruction to pupils on the state adopted academic content and ELD standards through Integrated and Designate ELD, and shall lead to grade level proficiency and academic achievement in both English and another language. Such programs include, but are not limited to: dual-language immersion, transitional or development programs for English learners and Structured English immersion. Such programs shall meet the requirements described in section 11309 of this subchapter."

3. **Section 11301 Community Engagement.** This proposed regulation fails to adequately reflect the new requirements imposed on school districts regarding the development of their Local Control Accountability Programs (LCAPs) during the LCAP process. It fails to also include a reference to the programs identified in Section 306; dual-language immersion and transitional or developmental programs. The language clearly fails to capture the intent of the initiative, to encourage the development of bilingual/multilingual programs where very few schools have them.

**Recommendation:** The proposed section should be amended to read: "(a) As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English learner parent advisory committee and the parent advisory committee, regarding the LEAs existing language acquisition programs and language programs, and establishing other programs including dual-language immersion programs, transitional or developmental programs, and Structured English Immersion programs."

4. **Section 11311. Parent Requests for Language Acquisition Programs**

This regulation should make it very clear the fact that a school district must implement requested programs, to the extent possible. We believe, based upon the language in the initiative, burden is on the school district to justify why parental requests for a particular language acquisition program will not be honored when the numerical triggers have been met. This proposed section fails to adequately reflect this burden and should, provide minimum guidelines to determine what is meant by the phrase "to the extent possible." This proposed section must be revised to make clear that the presumption is that the school will provide the requested program. Additionally, the proposed section states that resources necessary to implement a language acquisition program must be identified. However, it does not explain how these resources would factor into the determination that it is possible or not possible to implement the requested program immediately or in the future.

**Recommendations:** a) Add a new subsection to read as follows: "(a) A LEA shall establish and allow enrollment in any language acquisition program requested by parents in accordance with Education Code 310, to the extent possible." b) Add language explaining how "resources necessary" will be used
in determining that it is possible or not possible to implement programs requested by parents.

5. **Section 11311 (g)(3) (B) Parent Requests for Language Acquisition Programs**

   The proposed subsection (g) (3)(B) does not specify the form nor the content of the denials. The proposed subsection also does not require that the explanation of a denial be reasonable or delineate specific reasons for a denial. Lastly the proposed regulation gives school districts 90 days to respond. As was required by Proposition 227, parents or guardians were provided with a full written description and, upon request from a parent or guardian, a spoken description of the structured English immersion program and any alternative courses of study and all education opportunities offered by the school district and available to the pupils. Additionally, schools were given 20 days to act on parent exception Waivers, or within 10 calendar days after the expiration of the 30-day placement in an English only classroom or 20 instructional days upon submission to the principal.

   **Recommendations:**
   - a) Amend this proposed subsection so that similar standards and timelines are applied necessary to create the type of parental engagement envisioned by CA Ed.G.E.
   - b) A requirement that the district notify the requesting parent within 5 school days about whether the requested program is currently available, or whether the trigger for such a program has or has not been reached and provide notice in writing, to parents of pupils attending the school, the school's teachers, and administrators, of its determination, should be reduced to 30 days and not 90 days.

6. **Section 11311 (i) Parent Requests for Language Acquisition Programs**

   The proposed subsection (i) is inconsistent with Education Code Section 310. The proposed subsection makes a distinction between parents of EL students and parents of native speakers of English with respect to determining the numerical triggers. Education Code section 310 does not make this distinction. On the contrary, the statute envisioned that the parents of native English speakers should be given the opportunity to request a bilingual/multilingual program along with parents of EL students. Allowing a school district to not consider requests from the parents of English learners when determining numerical triggers would be inconsistent with the statute, negate the role of parents of EL students in the process of seeking programs for their children and would mean that bilingual/multilingual programs would rarely be implemented.

   **Recommendation:** Amend proposed subsection 11311 (I) to read: "(i) A school shall consider requests from parents of pupils enrolled in the school who are native speakers of English when determining whether a threshold specified in subdivision (g) is reached."
Other recommendations that should be considered are:

- Establishing an appeal process for parents in the event districts do not abide by the requirements of CA Ed.G.E.
- Proposed Section 11316 should be clarified to ensure that the Notice is provided in the primary language of a parent of an EL student unless it is an unreasonable burden to do so.
- In light of California’s strengthened commitment to local control and stakeholder engagement in the school funding and planning processes, proposed sections 11301 and 11311 should be amended to require more robust stakeholder engagement and feedback for the development of acquisition language programs.

The California Association for Bilingual Education and the Californians Together Coalition also signed onto the letter submitted by the California Rural Legal Assistance Inc and the Racial Justice-Education Lawyers’ Committee for Civil Rights of the San Francisco Bay Area to CDE’s Regulations Coordinator.

We can't emphasize enough the importance of the implementation of the CA Ed G.E. initiative via the regulations. There is much interest and excitement about the opportunities for expanded program options leading to multilingualism for all of our students. The Title V regulations need to capture the intent and language of Proposition 58 necessary to provide clear guidance and direction to school districts and schools and an understanding by parents of Proposition 58. We believe our comments and recommendations along with those provided by the California Rural Legal Assistance Inc and the Racial Justice-Education Lawyers Committee for Civil Rights of the San Francisco Bay Area provide that clarity and direction.

Please contact me at 916-395-2616 should you have questions regarding our comments or recommendations.

Thank you.

(Signed by Martha Zaragoza Diaz, Legislative Advocate)

372 Florin Road, Suite 311
Sacramento, CA 95831
Phone: 916-395-2616
Fax: 916-421-1099
Date: September 11, 2017

To: Patricia Alverson, Regulations Coordinator Administrative Support and Regulations Adoption Unit California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

Submitted by email: regcomments@cde.ca.gov

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Joann H. Lee, Directing Attorney
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Abigail Trillin, Executive Director
Legal Services for Children
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Dr. Barbara Flores, President
California Latino School Boards Association
CLSBA c/o Jesus Holguin, P.O. Box 7624, Moreno Valley, CA 92553 - (909) 223-2356

Re: Comments regarding Notice of Proposed Rulemaking – Amendment to California Code of Regulations, Title 5, Regarding California Education for a Global Economy Initiative

I. INTRODUCTION

This memorandum is submitted in response to the “Notice of Proposed Rulemaking” dated July 28, 2017 in which the State Board of Education (SBE) proposes regulations implementing the California Education for a Global Economy Initiative (CA Ed.G.E.) The proposed regulations
modify several provisions of Title 5 of the California Code of Regulations (CCR) related to the education of English Learner (EL) students including 5 CCR §§ 11300, 11301, 11309, 11310 and 11316 and add Sections 11311 and 11312.

As explained in this memorandum, we have significant concerns about both the process by which this rulemaking is being undertaken and several of the substantive changes being proposed to the Title 5 Regulations. Substantively, there is little in the proposed regulations that further one of the underlying purposes of the CA Ed.G.E. Initiative, which is to promote the development of multilingual skills. Furthermore, in light of California’s strengthened commitment to local control and stakeholder engagement in the school funding and planning process, § 11301 and § 11311 should be broadened to require more robust stakeholder engagement and feedback for the development of language acquisition programs.

Finally, we object to § 11311(g) regarding denial of parental requests for language acquisition programs to the extent that it fails to require that the explanation be in writing or offer parameters as to what type of explanation is required. It also fails to establish a mechanism by which parents can challenge a school district’s denial of their requests for a new language acquisition program. Also, § 11311(g) unnecessarily more than triples the amount of time that school districts have to respond to parental requests for language acquisition programs as compared to the Proposition 227 regulations.

II. ANALYSIS

In November 2016, California voters repealed Proposition 227 overwhelmingly replacing it with Proposition 58, also known as the CA Ed.G.E. Initiative. Proposition 227 stated that “all children in California public schools shall be taught English by being taught in English.” In sharp contrast, the CA Ed.G.E. Initiative recognizes that multilingual learning is beneficial for students as well as a coveted ability in the broader California economy. To that end, it is intended to provide an opportunity for all students to develop skills that lead to their proficiency in English and another language; and to ensure that districts meet the obligation to ensure that EL students obtain proficiency in English and reach at least grade level proficiency in academic achievement. CA Ed.G.E. affirmatively rejects the Proposition 227 English language instruction presumption that restricted the rights of Limited English Proficient (LEP) parents to choose from a range of pedagogically sound language acquisition programs – including dual-language immersion – to
address the needs of their children. Yet, the proposed regulations fail to require that districts provide parents with adequate notice regarding those other programs and overly emphasize Sheltered English Immersion (SEI) programs while failing to even include the definition of dual-language immersion or transitional/developmental programs included in the Initiative.

Largely, we believe that the proposed regulations should provide a roadmap for districts and an explanation of rights for parents that will promote compliance with CA Ed.G.E. Additionally, as parents are key to effective education, and in keeping with the goals of California’s newly implemented Local Control Funding Formula, the regulations should provide direction to school districts about effectively engaging with stakeholders to create instruction that matches local needs. The regulations should also facilitate parental involvement in the consideration of new language acquisition programs designed to assist EL students to learn academic English and to provide to all students opportunities to gain multilingual skills. As will be explained below, the regulations could be strengthened and expanded to achieve these worthwhile objectives.

A. Procedural Objections

We described in great detail by letter dated August 17, 2017 that the parents of the 1.3 million EL students enrolled in our schools have been summarily excluded from this process by the failure of the SBE to translate the proposed regulations, the ISR and the Notice of Rulemaking into languages other than English. As a result of this failure, the SBE was in violation of both state and federal civil rights statutes and regulatory provisions, including: Title VI of the Civil Rights Act of 1964, 20 U.S.C. 2000d, and its implementing regulations at 34 C.F.R. § 100.3(a); the Equal Educational Opportunities Act, 20 U.S.C. §§ 1701-1720; the Dymally-Allatorre Bilingual Services Act at Gov. Code § 7295; and Gov. Code § 11135. In that letter (which we incorporate into these comments and attach as Exhibit A) we asked that translation of these materials be completed immediately, made available to the public and a new notice and comment period be established to allow for input from the LEP community. The SBE responded on September 1, 2017 advising us that, “as a courtesy” the regulations had been posted in Spanish on the CA E.D.G.E. website. After some searching we were able to find them, however, there is no Spanish language notice on the opening page of the website – or on the website providing notice of the rulemaking activity – that would inform non-English speakers that the regulations are available in another language. Moreover, the translated material does not include the notice,
the comment deadlines, information about where to submit comments or the initial statement of reasons. It provides no meaningful opportunity for the LEP community to be involved.

Indeed, in light of the complexities involved with the development and provision of education programs, and the need to address the intersection between CA Ed.G.E. implementation and Local Control and Accountability Plan (LCAP) requirements, the California Department of Education (CDE) should have convened stakeholders meetings prior to issuing notice of the proposed regulations. Gov. Code § 11346.45. It is deeply troubling that the Department did not even attempt to comply with that section or, in the proposed regulations or statement of reasons “….state the reasons for noncompliance with reasonable specificity…” as required by Gov. Code 11346.45(c). This is particularly true since it is routinely the practice of the State Board and the CDE to convene stakeholder sessions on policy matters.

**Recommendation:**

We recommend that the full regulatory notice packet be translated and posted and that a new notice period be voted on and approved at the September 11, 2017 meeting of the State Board of Education.

**B. Modifications to Title 5 of the California Code of Regulations**

1) **The Definition of “English Learner Parental Advisory Committee” Must be Expanded So That It is Consistent with Current Law.**

In Section 11300(b) the following definition of “English learner parental advisory committee” is proposed:

“English learner parent advisory committee,” means the committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063 and 52069, and Title 5 California Code of Regulations section 15495(b).

This definition should not be narrowly confined to advisory committee references related to the (LCAP). The ISR states, in part, that the “CA Ed.G.E. Initiative requires parent and community engagement regarding language acquisition programs and language programs as part of the process of developing a school district or county office of education LCAP, as required by LCFF” and therefore, the proposed definition “aligns to the LCFF and provides for consistent application in these regulations.” (ISR at 3.)
While it is critical that the development of appropriate programs be included in the LCAP process, that mandate does not undermine, much less dictate, the role that District-level English Learner Advisory Committees (DELAC) currently have under law. The definition should be expanded to include DELACs established pursuant to Educ. Code §§ 52176(b)-(c), 62002.5, 64001 and 5 CCR §11308(b) and (c).\(^1\) It is important to reference these other provisions because they set forth the composition, roles and responsibilities of these committees beyond what is required in the provisions related to the development of the LCAP.\(^2\)

“The words of the statute must be construed in context, keeping in mind the statutory purpose, and statutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible.” *Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal. 3d 1379, 1387. Pursuant to Education Code and regulatory provisions DELACs “shall advise the school district governing board” on the “[d]evelopment of a district master plan for education programs and services for English learners” and the “[e]stablishment of district program, goals, and objectives for programs and services for English learners.” 5 CCR §11308. Reading these provisions together, it is clear that, DELACs, regardless of the LCAP requirements, must be consulted with respect to the development of language acquisition programs proposed by any District pursuant to CA Ed.G.E.

**Recommendation:**

The proposed definition should be amended as follows:

“English learner parent advisory committee,” means the committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063, and 52069, 52176 (b) and (c), 62002.5 and 64001(a) and Title 5 California Code of Regulations sections 11308 and 15495(b).


As noted above, one of the primary purposes of CA Ed.G.E. is to provide our students with the opportunity to develop multilingual skills “that are necessary for our country’s national security

\(^1\) See the CDE webpage regarding DELACs, available at: http://www.cde.ca.gov/ta/cr/delac.asp.

\(^2\) As part of its Federal Program Monitoring process, the CDE continues to monitor the establishment of both DELACs and site level English Learner Advisory Committees (ELAC) pursuant to Education Code §§ 52176, 64001 and 5 CCR §11308, as well as, Education Code § 52063. See the “California Department of Education English Learner (EL) On-site 2017-18 Program Instrument, pages 1-2, available at: http://www.cde.ca.gov/ta/cr/documents/elos1718v2.pdf.
and essential to conducting in diplomacy and international programs.” The Initiative further emphasizes that “California has a natural reserve of the world’s largest languages, including English, Mandarin, and Spanish, which are critical to the state’s economic trade and diplomatic efforts. . .” Educ. Code § 300 (e) and (f). Unfortunately, the proposed regulations do not reflect the purposes related to multilingualism. Indeed, they do the opposite and over-promote the very program that was imposed by Proposition 227, Sheltered English Immersion (SEI). 3

CA Ed.G.E, in Educ. Code § 306 (c) defines “language acquisition programs” as follows:

“Language acquisition programs” refers to educational programs designed to ensure English acquisition as rapidly and as effectively as possible, and that provide instruction to pupils on the state-adopted academic content standards, including the English language development standards. The language acquisition programs provided to pupils shall be informed by research and shall lead to grade level proficiency and academic achievement in both English and another language. (Emphasis added).

It is clear from this definition that language acquisition programs, per the underlying intent of the Initiative, are to address English acquisition, access to the core curriculum, and proficiency in a language other than English. Section 306(c) further identifies three separate programs that fall within the definition. They include: 1) dual-language immersion programs; 2) transitional or developmental programs for EL students; and, 3) Structured English Immersion (SEI) programs for EL students. Educ. Code § 306 (c)(1)-(3). Both dual language immersion programs and transitional/developmental programs for EL students provide academic instruction in languages other than English. SEI programs do not. The Initiative makes clear that SEI programs are the “minimum” that school districts are to provide EL students to ensure that they have access to the core curriculum and become proficient in English. Educ. Code § 305 (a)(2).

Contrary to Educ. Code § 306(c), Section 11300(d) of the proposed regulations narrows the definition of “language acquisition programs” by suggesting that such programs focus solely on English acquisition and content instruction solely through English Language Development (ELD). It makes no mention of academic instruction in languages other than English or the CA

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3 Under Proposition 227, SEI programs were defined as “an English acquisition process for young children in which nearly all classroom instruction is in English but with the curriculum and presentation designed for children who are learning the language.”
Ed.G.E. goal of “grade level proficiency and academic achievement in both English and another language.”

“Language acquisition programs” are educational programs designed for English learners to ensure English acquisition as rapidly and effectively as possible, that provide instruction to these pupils on the state-adopted academic content and ELD standards through Integrated and Designated ELD, and that meet the requirements described in section 11309 of this subchapter. (Emphasis added).

Three programs are explicitly identified in the Initiative as meeting the definition of “language acquisition program” yet, only the “minimum” --Proposition. 227 preferred -- SEI program is defined in the proposed regulations. (Section 11300(m)) The proposed regulations borrow the language from Section 306(c)(3) and defines SEI programs as “a language acquisition program, where nearly all instruction is provided in English…” According to the ISR this regulatory definition was added “to facilitate access to the definition of “Structured English Immersion (SEI),” in EC sections 305(a)(2) and 306(c)(3).” If the intent was to facilitate access to the definition of SEI programs, then it should have done more than merely regurgitate verbatim the definition found in Section 306(c)(3). Including this definition, and excluding those for the other programs identified in CA Ed.G.E., suggests that districts may rely on SEI alone, or make it a preferred program and still fulfill their obligations under the law. Of course, this is not the case and is exactly what CA Ed.G.E. was designed to change.

The proposed regulations fail to even mention, much less define, dual-language immersion programs or transitional/developmental programs for EL students or any program that would ensure “academic achievement in both English and another language.” Why was there no need to “facilitate access” to their definitions as found in Educ. Code §§ 306(c)(1) and (2)? It appears that by providing a definition for SEI programs and ignoring the others, the purpose was to elevate SEI programs to a status that was not intended by, and is in fact at odds with, CA Ed.G.E..

Proposed regulation Section 11300(e) further muddies the water by introducing a new category of programs referred to as “language programs,” which are defined as:

... programs that are designed to provide opportunities for pupils to be instructed in languages other than English to a degree sufficient to produce proficiency in those languages, consistent with the provisions of Education Code section 305, subdivision (c).
According to the ISR, this separate definition is needed “to distinguish between “language programs” and “language acquisition programs,” which are designed for English learners.” (ISR at 3.) However, Educ. Code § 305 addresses second language acquisition for all students, including EL students. One must ask which programs are then included in § 11300(e)? None are identified. Do dual-language immersion programs fall under this definition? It is difficult to tell because dual-language immersion programs also enroll EL students and are designed to both produce proficiency in a second language and high academic achievement. Educ. Code § 306(c)(1).

Because of the vagueness of the proposed language, it is unclear what definition a dual-language immersion program or a transitional/developmental program for EL students would fall under.

It is clear that the proposed definition of “language acquisition program” must be amended so that it is not limited to SEI programs and includes those programs, such as dual-language immersion and transitional or developmental programs, which lead to grade level proficiency and academic achievement in both English and another language.4

**Recommendations:**

Proposed regulation § 11300 (d) should be amended to read as follows:

“Language acquisition programs” are educational programs designed for English learners to ensure English acquisition as rapidly and effectively as possible for English learners, that provide instruction to these pupils on the state-adopted academic content and ELD standards through Integrated and Designated ELD, and shall lead to grade level proficiency and academic achievement in both English and another language. Such programs include, but are not limited to: dual-language immersion, transitional or developmental programs for English learners, and Structure English immersion. Such programs shall meet the requirements described in section 11309 of this subchapter.

Proposed regulation § 11300 should also be amended to include the following definitions for both dual-language immersion programs and transitional/developmental programs for EL students:

(n) Dual-language immersion programs means a language acquisition program that provides integrated language learning and academic instruction for native speakers of English and native speakers of another language, with the goals of

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4 It should be noted that “language programs” are not subject to Sections 11309 or 11311, and therefore have less programmatic requirements and are not subject to the parental request requirements. Section 11312 only allows for feedback about which languages will be provided for a “language program” but not the content of the programs.
high academic achievement, first and second language proficiency, and cross-cultural understanding.

(o) Transitional or developmental programs for English learners means language acquisition programs that provide instruction to pupils that utilizes English and a pupil’s native language for literacy and academic instruction and enables an English learner to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, in order to meet state-adopted academic content standards.

3) Section 11300 Should Include a Definition of English Learner.

Educ. Code § 306(a) defines an EL student as follows: “‘English learner’ means a pupil who is ‘limited English proficient’ as that term is defined in the federal No Child Left Behind Act of 2001 (20 U.S.C Sec. 7801 (25)).” This language does not provide adequate guidance with respect to the definition. However, it is clear that the underlying intent was to adopt the definition of English learner found under federal law.

Recommendation:

We recommend that a regulatory provision be added to Section 11300 to include the following definition:

An English learner student is an individual: (A) who is aged 3 through 21; (B) who is enrolled or preparing to enroll in an elementary school or secondary school; (C) (i) who was not born in the United States or whose native language is a language other than English; (ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and (II) who comes from an environment where a language other than English has had a significant impact on the individual’s level of English language proficiency; or (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and (D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—(i) the ability to meet the challenging state academic standards; (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or (iii) the opportunity to participate fully in society.

According to California’s current State Plan the above definition is found under the federal “Every Student Succeeds Act.”

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4) **Section 11301 Fails to Adequately Reflect the New Requirements Imposed on Districts Regarding the Development of Language Acquisition Programs During the LCAP Process.**

Educ. Code § 305(a) provides that as part of the LCAP process “school districts and county offices of education shall solicit input on, and shall provide to pupils, effective and appropriate instructional methods, including, but not limited to, establishing language acquisition programs, as defined in Section 306.” The three programs identified in Section 306 are “dual-language immersion programs,” “transitional or developmental programs,” and Structured English Immersion programs.” Proposed § 11301(a) fails to include a reference to these programs instead requires only input “regarding the LEA’s existing language acquisition programs and language programs, and establishing other such programs.” This fails to capture the true intent of Ca Ed.G.E. which was to encourage the development of dual language acquisition programs in a landscape where very few schools have them due to restrictions imposed by Prop. 227. Section 11301(a) emphasizes existing programs while failing to require that districts provide any effective notice to parents or others about what other types of programs may be available.

**Recommendation:**
The regulation should be revised to track the language included in Educ. Code §§ 305 and 306, as follows:

(a) As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English learner parent advisory committee and the parent advisory committee, regarding the LEA’s existing language acquisition programs and language programs, and establishing other such programs including dual-language immersion programs, transitional or developmental programs, and Structured English Immersion programs.

5) **The Proposed Regulations Governing a School District’s Decision on Parental Requests for a New Language Acquisition Program Should Be Strengthened to Improve Notice and Avoid Delay.**

a. The regulation should make clear the fact that a district must implement requested programs, to the extent possible.

Educ. Code § 310 states that parents “may choose a language acquisition program that best suits their child . . .” It further provides that when the parents of 30 pupils or more per school or the parents of 20 pupils or more per grade request a particular language acquisition program, a school “shall be required to offer such a program to the extent possible . . .” Given the language
of the Initiative, the burden is on a school district to justify why parental requests for a particular language acquisition program will not be honored when the numerical triggers have been met. The proposed regulations fail to adequately reflect this burden and should, but do not, provide minimum guidelines to determine what is meant by the phrase “to the extent possible.” They must be revised to do so and to make clear that the presumption is that the school will provide the requested program.

Recommendation:

This could be addressed in Section 11311 by adding the following language as new subsection (a) A LEA shall establish and allow enrollment in any language acquisition programs requested by parents in accordance with Educ. Code § 310, to the extent possible.

Clarification of the circumstances under which a district may deny a request is critical to the uniform implementation of the requirements of CA Ed.G.E.. Section 11311(g)(2) states that when the numerical triggers have been met, a school district shall, “Identify resources necessary to implement a language acquisition program, including but not limited to certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals.” However, it does not explain how these resources would factor into a determination that it is possible or not possible to implement the requested program immediately or in the future. The regulations must be augmented to address this deficiency.

b. The regulations should clarify and strengthen the type and form of notice required when a school district denies a parental request for a language acquisition program.

The proposed notice provisions are also inadequate. Section 11311(g)(3)(B) of the proposed regulation, applying to language acquisition programs, reads:

[i]n the case where the LEA determines it is not possible to implement a language acquisition program requested by parents, the LEA shall provide an explanation of the reason(s) the program cannot be implemented in the school and may offer an alternate option that can be implemented at the school.

The regulations must be modified to specify the form that the denials are required to take as well as their content. All explanations of denial should be required to be in writing.
Furthermore, § 11311(g)(3)(B) is inadequate to the extent that it contains no requirement that the explanation be reasonable or delineate specific reasons, saying only that the denying school district “may” offer an alternative. Particularly given that the school district is given 90 days to respond, a substantial widow, the requesting parties are entitled to a reasonable explanation that they can understand and respond to. For context, under the parental waiver section of the current regulations § 11309, which is rendered unnecessary by the repeal of Proposition 227:

> [p]arents and guardians must be provided with a full written description and, upon request from a parent or guardian, a spoken description of the structured English immersion program and any alternative courses of study and all educational opportunities offered by the school district and available to the pupil.

Similar standards should apply here. This type of notice is necessary to create the type of parental engagement envisioned by CA Ed.G.E.. It also provides parents a basis on which to challenge decisions with which they do not agree.

**c. A response time of 90 days to act on parental requests encourages needless delay.**

Under § 11311(g)(3) of the proposed regulations, school districts are given 90 days to respond to parental requests for language acquisition programs. This time-frame nearly triples the allotted time for similar processes under Proposition 227. When parents sought waivers under Proposition 227, the comparable time frame read:

> [a]ll parental exception waivers shall be acted upon by the school within twenty (20) instructional days of submission to the school principal. However, parental waiver requests under Education Code § 311(c) shall not be acted upon during the thirty (30)-day placement in an English language classroom. These waivers must be acted upon either no later than ten (10) calendar days after the expiration of that thirty (30)-day English language classroom placement or within twenty (20) instructional days of submission of the parental waiver to the school principal, whichever is later.” § 11309.

A similar time-frame is needed under these regulations.

**Recommendation:**

The regulations should be revised to include a requirement that the district notify the requesting parent within five school days about whether the requested program is currently available, or whether the trigger for such a program has or has not been reached. Districts should have to similarly advise requesting parents within five school days after the threshold is met if that
occurs at a later time. Finally, the time within which the district must determine whether it is possible to implement the requested language acquisition program and provide notice, in writing, to parents of pupils attending the school, the school’s teachers, and administrators, of its determination, should be reduced to 30 days.

d. The proposed regulations should provide parents with a method of appeal.

In the event that districts do not abide by the requirements of CA Ed.G.E. parents should have a mechanism for appeal that is speedy and effective. Because considerable time will have elapsed between the request and denial; and because failure to establish a program will necessarily be a district level decision; we propose that parents be allowed to appeal directly to the California Department of Education, or State Board of Education.

e. The proposed regulations should facilitate broader stakeholder engagement in the creation of language acquisition programs.

The purpose of § 11309 as proposed is to “connect Ed. Code § 305(a)(1), (2) and § 306(c) with the federal obligations for the creation, implementation and evaluation of language acquisition programs for English learners. The obligations detailed in [that] section are supported by 20 U.S.C. § 1703.” (ISR at 5.) Largely, these obligations are exactly in keeping with the goals of CA Ed.G.E, but more could be done to encourage stakeholder engagement.

f. Proposed Regulation § 11311(i) is Inconsistent with Educ. Code § 310.

Section 11311(i) of the proposed regulations reads as follows:

A school may consider requests from parents of pupils enrolled in the school who are native speakers of English when determining whether a threshold specified in subdivision (g) is reached. (Emphasis added.)

Educ. Code § 310 does not make a distinction between parents of EL students and parents of native speakers of English with respect to determining the numerical triggers. Rather the provision refers broadly to “parents or legal guardians of pupils.” This is of particular importance with respect to a request for a dual-language immersion program. As noted above, although the proposed regulations do not acknowledge such programs as a “language acquisition program,” the statute does and defines such programs as:
Dual-language immersion programs that provide integrated language learning and academic instruction for native speakers of English and native speakers of another language, with the goals of high academic achievement, first and second language proficiency, and cross-cultural understanding. Educ. Code § 306(c)(1).

(Emphasis added.)

The statute certainly requires that the parents of native English speakers be given the opportunity to request a dual-language immersion program along with the parents of EL students. Allowing a school district to not consider requests from the parents of native English speakers when determining numerical triggers would be inconsistent with the statute and would basically mean that dual-language immersion programs would rarely be implemented.

**Recommendation:**

Proposed regulation § 11311(i) should read as follows:

A school **shall** consider requests from parents of pupils enrolled in the school who are native speakers of English when determining whether a threshold specified in subdivision (g) is reached.

6) **Section 11316 Should be Clarified to Ensure That Notice is Provided in the Primary Language Whenever Practicable.**

School districts are required to comply with the anti-discrimination provisions of various state and federal laws, many of which make clear that an agency receiving state or federal funding must provide effective notice of key programs, irrespective of whether an arbitrary threshold is met in any particular language. Title VI of the Civil Rights Act of 1964, 20 U.S.C. 2000d, and its implementing regulations at 34 C.F.R. § 100.3(a). “School districts and S[tate] E[ducational] A[genties] have an obligation to ensure meaningful communication with LEP parents in a language they can understand and to adequately notify LEP parents of information about any program, service, or activity of a school district or SEA that is called to the attention of non-LEP parents.”6 See also, the Equal Educational Opportunities Act, 20 U.S.C. §§ 1701-1720. Gov. Code § 11135 mandates that students and parents be provided “full and equal access to the benefits of” and not be “unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency.” The proposed

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6 Dear Colleague Letter - Guidance to Ensure English Learner Students Have Access to a High-Quality Education, Office for Civil Rights and Department of Justice, (Jan. 7, 2015) page 37.
regulations, in fact, cite to some of these obligations, but then impose only the minimum standard for compliance with language access obligations by referring to Educ. Code § 48985 which requires translation only at school sites where 15% or more of students enrolled speak a single primary language other than English. This is simply not adequate when drafting a regulation that is expressly designed to provide notice to and elicit input from non-English speakers about programs for their children.

**Recommendation:**

We propose that Section 11316 be revised to ensure that translated notices are provided unless it would be an unreasonable burden to do so.

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

All notices and other communications to parents or guardians required or permitted by these regulations must be provided in English and in the parents' or guardians' primary language unless provision of such notice is impracticable.


### III. CONCLUSION

We believe that it is of paramount importance that the implementation of the CA Ed.G.E. Initiative be in keeping with its stated values, allowing people from many different walks of life to engage in the rulemaking process. To that end, we hope that further efforts will be made to provide more opportunity for comment and consideration by issuing a new notice, in appropriate languages, and consider convening hearings or stakeholder meetings for input from those communities. We are encouraged by the development of a system that allows all parents to request a language acquisition program that best fits their children’s educational needs. In order for the program to meet its potential, schools must include all interested parents in the development of programs, provide meaningful notice of the program election process and not be permitted to simply deny these requests without meaningful explanation.

cc: Members, State Board of Education
    Tom Torlakson, State Superintendent of Public Instruction
Dear Ms. Escobedo and Ms. Rice:

This is in response to your August 17, 2017, letter to State Board of Education (SBE) President Michael Kirst. You expressed concern about the proposed Title 5 regulations around the California Education for a Global Economy Initiative (CA Ed.G.E.). The regulations have been posted on the California Department of Education’s (CDE) website since June 30, 2017, and can be found at: http://www.cde.ca.gov/re/lr/rr/caedginitiative.asp

Pursuant to action by the SBE on July 12, 2017, the 45-day public comment period began on July 29, 2017 and closes on September 11, 2017. Because your letter was received during this designated period, we have forwarded your letter to the Regulations Coordinator, and it will be considered as a comment received from members of the public during the 45-day public comment period.

In response to your request to continue the September 11, 2017 public hearing date or the public comment period for these regulations, staff does not have the discretion to take these actions, since the SBE specifically directed the staff to commence the public comment period and to hold the public hearing on September 11, 2017. Consistent with the rule-making requirements, your request, along with all public comments received, will be considered by the SBE upon the close of the public comment period.
However, in order to assist parents of English Learner parents and students, a translated version (Spanish) of the regulations has been posted on the CDE website, and specifically on the page devoted to CA Ed.G.E. The link for that page is: http://www.cde.ca.gov/sp/el/er/caedge.asp.

Any member of the public can submit comments to the regulations in writing during the public comment period. In addition, comments can be made in person at the public hearing. These comments can be submitted in any language.

The CDE worked diligently to draft these regulations, and to put them out for public comment, with the end goal of efficient implementation of the CA Ed.G.E. initiative at the beginning of the 2018-19 school year. The regulation adoption process usually takes 10-12 months to complete.

If you have specific comments about the content of the regulations, we hope you will avail yourselves of this opportunity to comment. All public comments benefit the process.

Sincerely,

/s/

Judy Cias
Chief Counsel
State Board of Education

cc: The Honorable Tom Torlakson, Superintendent of Public Instruction
Date: September 11, 2017

To: Patricia Alverson, Regulations Coordinator Administrative Support and Regulations Adoption Unit California Department of Education
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Submitted by email: regcomments@cde.ca.gov

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Re: Comments regarding Notice of Proposed Rulemaking – Amendment to California Code of Regulations, Title 5, Regarding California Education for a Global Economy Initiative

I. INTRODUCTION

This memorandum is submitted in response to the “Notice of Proposed Rulemaking” dated July 28, 2017 in which the State Board of Education (SBE) proposes regulations implementing the California Education for a Global Economy Initiative (CA Ed.G.E.) The proposed regulations
modify several provisions of Title 5 of the California Code of Regulations (CCR) related to the education of English Learner (EL) students including 5 CCR §§ 11300, 11301, 11309, 11310 and 11316 and add Sections 11311 and 11312.

As explained in this memorandum, we have significant concerns about both the process by which this rulemaking is being undertaken and several of the substantive changes being proposed to the Title 5 Regulations. Substantively, there is little in the proposed regulations that further one of the underlying purposes of the CA Ed.G.E. Initiative, which is to promote the development of multilingual skills. Furthermore, in light of California’s strengthened commitment to local control and stakeholder engagement in the school funding and planning process, § 11301 and § 11311 should be broadened to require more robust stakeholder engagement and feedback for the development of language acquisition programs.

Finally, we object to § 11311(g) regarding denial of parental requests for language acquisition programs to the extent that it fails to require that the explanation be in writing or offer parameters as to what type of explanation is required. It also fails to establish a mechanism by which parents can challenge a school district’s denial of their requests for a new language acquisition program. Also, § 11311(g) unnecessarily more than triples the amount of time that school districts have to respond to parental requests for language acquisition programs as compared to the Proposition 227 regulations.

II. ANALYSIS

In November 2016, California voters repealed Proposition 227 overwhelmingly replacing it with Proposition 58, also known as the CA Ed.G.E. Initiative. Proposition 227 stated that “all children in California public schools shall be taught English by being taught in English.” In sharp contrast, the CA Ed.G.E. Initiative recognizes that multilingual learning is beneficial for students as well as a coveted ability in the broader California economy. To that end, it is intended to provide an opportunity for all students to develop skills that lead to their proficiency in English and another language; and to ensure that districts meet the obligation to ensure that EL students obtain proficiency in English and reach at least grade level proficiency in academic achievement. CA Ed.G.E. affirmatively rejects the Proposition 227 English language instruction presumption that restricted the rights of Limited English Proficient (LEP) parents to choose from a range of pedagogically sound language acquisition programs – including dual-language immersion – to
address the needs of their children. Yet, the proposed regulations fail to require that districts provide parents with adequate notice regarding those other programs and overly emphasize Sheltered English Immersion (SEI) programs while failing to even include the definition of dual-language immersion or transitional/developmental programs included in the Initiative.

Largely, we believe that the proposed regulations should provide a roadmap for districts and an explanation of rights for parents that will promote compliance with CA Ed.G.E. Additionally, as parents are key to effective education, and in keeping with the goals of California’s newly implemented Local Control Funding Formula, the regulations should provide direction to school districts about effectively engaging with stakeholders to create instruction that matches local needs. The regulations should also facilitate parental involvement in the consideration of new language acquisition programs designed to assist EL students to learn academic English and to provide to all students opportunities to gain multilingual skills. As will be explained below, the regulations could be strengthened and expanded to achieve these worthwhile objectives.

A. Procedural Objections

We described in great detail by letter dated August 17, 2017 that the parents of the 1.3 million EL students enrolled in our schools have been summarily excluded from this process by the failure of the SBE to translate the proposed regulations, the ISR and the Notice of Rulemaking into languages other than English. As a result of this failure, the SBE was in violation of both state and federal civil rights statutes and regulatory provisions, including: Title VI of the Civil Rights Act of 1964, 20 U.S.C. 2000d, and its implementing regulations at 34 C.F.R. § 100.3(a); the Equal Educational Opportunities Act, 20 U.S.C. §§ 1701-1720; the Dymally-Allatorre Bilingual Services Act at Gov. Code § 7295; and Gov. Code § 11135. In that letter (which we incorporate into these comments and attach as Exhibit A) we asked that translation of these materials be completed immediately, made available to the public and a new notice and comment period be established to allow for input from the LEP community. The SBE responded on September 1, 2017 advising us that, “as a courtesy” the regulations had been posted in Spanish on the CA E.D.G.E. website. After some searching we were able to find them, however, there is no Spanish language notice on the opening page of the website – or on the website providing notice of the rulemaking activity – that would inform non-English speakers that the regulations are available in another language. Moreover, the translated material does not include the notice,
the comment deadlines, information about where to submit comments or the initial statement of reasons. It provides no meaningful opportunity for the LEP community to be involved.

Indeed, in light of the complexities involved with the development and provision of education programs, and the need to address the intersection between CA Ed.G.E. implementation and Local Control and Accountability Plan (LCAP) requirements, the California Department of Education (CDE) should have convened stakeholders meetings prior to issuing notice of the proposed regulations. Gov. Code § 11346.45. It is deeply troubling that the Department did not even attempt to comply with that section or, in the proposed regulations or statement of reasons “….state the reasons for noncompliance with reasonable specificity…” as required by Gov. Code 11346.45(c). This is particularly true since it is routinely the practice of the State Board and the CDE to convene stakeholder sessions on policy matters.

Recommendation:
We recommend that the full regulatory notice packet be translated and posted and that a new notice period be voted on and approved at the September 11, 2017 meeting of the State Board of Education.

B. Modifications to Title 5 of the California Code of Regulations

1) The Definition of “English Learner Parental Advisory Committee” Must be Expanded So That It is Consistent with Current Law.

In Section 11300(b) the following definition of “English learner parental advisory committee” is proposed:

“English learner parent advisory committee,” means the committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063 and 52069, and Title 5 California Code of Regulations section 15495(b).

This definition should not be narrowly confined to advisory committee references related to the (LCAP). The ISR states, in part, that the “CA Ed.G.E. Initiative requires parent and community engagement regarding language acquisition programs and language programs as part of the process of developing a school district or county office of education LCAP, as required by LCFF” and therefore, the proposed definition “aligns to the LCFF and provides for consistent application in these regulations.” (ISR at 3.)
While it is critical that the development of appropriate programs be included in the LCAP process, that mandate does not undermine, much less dictate, the role that District-level English Learner Advisory Committees (DELAC) currently have under law. The definition should be expanded to include DELACs established pursuant to Educ. Code §§ 52176(b)-(c), 62002.5, 64001 and 5 CCR §11308(b) and (c). It is important to reference these other provisions because they set forth the composition, roles and responsibilities of these committees beyond what is required in the provisions related to the development of the LCAP.

“The words of the statute must be construed in context, keeping in mind the statutory purpose, and statutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible.” Dyna-Med, Inc. v. Fair Employment & Housing Com. (1987) 43 Cal. 3d 1379, 1387. Pursuant to Education Code and regulatory provisions DELACs “shall advise the school district governing board” on the “[d]evelopment of a district master plan for education programs and services for English learners” and the “[e]stablishment of district program, goals, and objectives for programs and services for English learners.” 5 CCR §11308. Reading these provisions together, it is clear that, DELACs, regardless of the LCAP requirements, must be consulted with respect to the development of language acquisition programs proposed by any District pursuant to CA Ed.G.E.

Recommendation:
The proposed definition should be amended as follows:

“English learner parent advisory committee,” means the committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063, and 52069, 52176 (b) and (c), 62002.5 and 64001(a) and Title 5 California Code of Regulations sections 11308 and 15495(b).


As noted above, one of the primary purposes of CA Ed.G.E. is to provide our students with the opportunity to develop multilingual skills “that are necessary for our country’s national security

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1 See the CDE webpage regarding DELACs, available at: [http://www.cde.ca.gov/ta/cr/delac.asp](http://www.cde.ca.gov/ta/cr/delac.asp).

2 As part of its Federal Program Monitoring process, the CDE continues to monitor the establishment of both DELACs and site level English Learner Advisory Committees (ELAC) pursuant to Education Code §§ 52176, 64001 and 5 CCR §11308, as well as, Education Code § 52063. See the “California Department of Education English Learner (EL) On-site 2017-18 Program Instrument, pages 1-2, available at: [http://www.cde.ca.gov/ta/cr/documents/elos1718v2.pdf](http://www.cde.ca.gov/ta/cr/documents/elos1718v2.pdf).
and essential to conducting in diplomacy and international programs.” The Initiative further emphasizes that “California has a natural reserve of the world’s largest languages, including English, Mandarin, and Spanish, which are critical to the state’s economic trade and diplomatic efforts. . .” Educ. Code § 300 (e) and (f). Unfortunately, the proposed regulations do not reflect the purposes related to multilingualism. Indeed, they do the opposite and over-promote the very program that was imposed by Proposition 227, Sheltered English Immersion (SEI). 3

CA Ed.G.E, in Educ. Code § 306 (c) defines “language acquisition programs” as follows:

“Language acquisition programs” refers to educational programs designed to ensure English acquisition as rapidly and as effectively as possible, and that provide instruction to pupils on the state-adopted academic content standards, including the English language development standards. The language acquisition programs provided to pupils shall be informed by research and shall lead to grade level proficiency and academic achievement in both English and another language. (Emphasis added).

It is clear from this definition that language acquisition programs, per the underlying intent of the Initiative, are to address English acquisition, access to the core curriculum, and proficiency in a language other than English. Section 306(c) further identifies three separate programs that fall within the definition. They include: 1) dual-language immersion programs; 2) transitional or developmental programs for EL students; and, 3) Structured English Immersion (SEI) programs for EL students. Educ. Code § 306 (c)(1)-(3). Both dual language immersion programs and transitional/developmental programs for EL students provide academic instruction in languages other than English. SEI programs do not. The Initiative makes clear that SEI programs are the “minimum” that school districts are to provide EL students to ensure that they have access to the core curriculum and become proficient in English. Educ. Code § 305 (a)(2).

Contrary to Educ. Code § 306(c), Section 11300(d) of the proposed regulations narrows the definition of “language acquisition programs” by suggesting that such programs focus solely on English acquisition and content instruction solely through English Language Development (ELD). It makes no mention of academic instruction in languages other than English or the CA

3 Under Proposition 227, SEI programs were defined as “an English acquisition process for young children in which nearly all classroom instruction is in English but with the curriculum and presentation designed for children who are learning the language.”
Ed.G.E. goal of “grade level proficiency and academic achievement in both English and another language.”

“Language acquisition programs” are educational programs designed for English learners to ensure English acquisition as rapidly and effectively as possible, that provide instruction to these pupils on the state-adopted academic content and ELD standards through Integrated and Designated ELD, and that meet the requirements described in section 11309 of this subchapter. (Emphasis added).

Three programs are explicitly identified in the Initiative as meeting the definition of “language acquisition program” yet, only the “minimum” --Proposition. 227 preferred -- SEI program is defined in the proposed regulations. (Section 11300(m)) The proposed regulations borrow the language from Section 306(c)(3) and defines SEI programs as “a language acquisition program, where nearly all instruction is provided in English…” According to the ISR this regulatory definition was added “to facilitate access to the definition of “Structured English Immersion (SEI),” in EC sections 305(a)(2) and 306(c)(3).” If the intent was to facilitate access to the definition of SEI programs, then it should have done more than merely regurgitate verbatim the definition found in Section 306(c)(3). Including this definition, and excluding those for the other programs identified in CA Ed.G.E., suggests that districts may rely on SEI alone, or make it a preferred program and still fulfill their obligations under the law. Of course, this is not the case and is exactly what CA Ed.G.E. was designed to change.

The proposed regulations fail to even mention, much less define, dual-language immersion programs or transitional/developmental programs for EL students or any program that would ensure “academic achievement in both English and another language.” Why was there no need to “facilitate access” to their definitions as found in Educ. Code §§ 306(c)(1) and (2)? It appears that by providing a definition for SEI programs and ignoring the others, the purpose was to elevate SEI programs to a status that was not intended by, and is in fact at odds with, CA Ed.G.E..

Proposed regulation Section 11300(e) further muddies the water by introducing a new category of programs referred to as “language programs,” which are defined as:

. . . programs that are designed to provide opportunities for pupils to be instructed in languages other than English to a degree sufficient to produce proficiency in those languages, consistent with the provisions of Education Code section 305, subdivision (c).
According to the ISR, this separate definition is needed “to distinguish between “language programs” and “language acquisition programs,” which are designed for English learners.” (ISR at 3.) However, Educ. Code § 305 addresses second language acquisition for all students, including EL students. One must ask which programs are then included in § 11300(e)? None are identified. Do dual-language immersion programs fall under this definition? It is difficult to tell because dual-language immersion programs also enroll EL students and are designed to both produce proficiency in a second language and high academic achievement. Educ. Code § 306(c)(1).

Because of the vagueness of the proposed language, it is unclear what definition a dual-language immersion program or a transitional/developmental program for EL students would fall under.

It is clear that the proposed definition of “language acquisition program” must be amended so that it is not limited to SEI programs and includes those programs, such as dual-language immersion and transitional or developmental programs, which lead to grade level proficiency and academic achievement in both English and another language.4

**Recommendations:**

Proposed regulation § 11300 (d) should be amended to read as follows:

> “Language acquisition programs” are educational programs designed for English learners to ensure English acquisition as rapidly and effectively as possible for English learners, that provide instruction to these pupils on the state-adopted academic content and ELD standards through Integrated and Designated ELD, and shall lead to grade level proficiency and academic achievement in both English and another language. Such programs include, but are not limited to: dual-language immersion, transitional or developmental programs for English learners, and Structure English immersion. Such programs that shall meet the requirements described in section 11309 of this subchapter.

Proposed regulation § 11300 should also be amended to include the following definitions for both dual-language immersion programs and transitional/developmental programs for EL students:

> (n) Dual-language immersion programs means a language acquisition program that provides integrated language learning and academic instruction for native speakers of English and native speakers of another language, with the goals of

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4 It should be noted that “language programs” are not subject to Sections 11309 or 11311, and therefore have less programmatic requirements and are not subject to the parental request requirements. Section 11312 only allows for feedback about which languages will be provided for a “language program” but not the content of the programs.
high academic achievement, first and second language proficiency, and cross-cultural understanding.

(o) Transitional or developmental programs for English learners means language acquisition programs that provide instruction to pupils that utilizes English and a pupil’s native language for literacy and academic instruction and enables an English learner to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, in order to meet state-adopted academic content standards.

3) Section 11300 Should Include a Definition of English Learner.

Educ. Code § 306(a) defines an EL student as follows: “‘English learner’ means a pupil who is ‘limited English proficient’ as that term is defined in the federal No Child Left Behind Act of 2001 (20 U.S.C Sec. 7801 (25)).” This language does not provide adequate guidance with respect to the definition. However, it is clear that the underlying intent was to adopt the definition of English learner found under federal law.

Recommendation:

We recommend that a regulatory provision be added to Section 11300 to include the following definition:

An English learner student is an individual: (A) who is aged 3 through 21; (B) who is enrolled or preparing to enroll in an elementary school or secondary school; (C) (i) who was not born in the United States or whose native language is a language other than English; (ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and (II) who comes from an environment where a language other than English has had a significant impact on the individual’s level of English language proficiency; or (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and (D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—(i) the ability to meet the challenging state academic standards; (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or (iii) the opportunity to participate fully in society.

According to California’s current State Plan the above definition is found under the federal “Every Student Succeeds Act.”

4) Section 11301 Fails to Adequately Reflect the New Requirements Imposed on Districts Regarding the Development of Language Acquisition Programs During the LCAP Process.

Educ. Code § 305(a) provides that as part of the LCAP process “school districts and county offices of education shall solicit input on, and shall provide to pupils, effective and appropriate instructional methods, including, but not limited to, establishing language acquisition programs, as defined in Section 306.” The three programs identified in Section 306 are “dual-language immersion programs,” “transitional or developmental programs,” and Structured English Immersion programs.” Proposed § 11301(a) fails to include a reference to these programs instead requires only input “regarding the LEA’s existing language acquisition programs and language programs, and establishing other such programs.” This fails to capture the true intent of Ca Ed.G.E. which was to encourage the development of dual language acquisition programs in a landscape where very few schools have them due to restrictions imposed by Prop. 227. Section 11301(a) emphasizes existing programs while failing to require that districts provide any effective notice to parents or others about what other types of programs may be available.

Recommendation:
The regulation should be revised to track the language included in Educ. Code §§ 305 and 306, as follows:

(a) As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English learner parent advisory committee and the parent advisory committee, regarding the LEA’s existing language acquisition programs and language programs, and establishing other such programs including dual-language immersion programs, transitional or developmental programs, and Structured English Immersion programs.


a. The regulation should make clear the fact that a district must implement requested programs, to the extent possible.

Educ. Code § 310 states that parents “may choose a language acquisition program that best suits their child . . .” It further provides that when the parents of 30 pupils or more per school or the parents of 20 pupils or more per grade request a particular language acquisition program, a school “shall be required to offer such a program to the extent possible . . .” Given the language
of the Initiative, the burden is on a school district to justify why parental requests for a particular language acquisition program will not be honored when the numerical triggers have been met. The proposed regulations fail to adequately reflect this burden and should, but do not, provide minimum guidelines to determine what is meant by the phrase “to the extent possible.” They must be revised to do so and to make clear that the presumption is that the school will provide the requested program.

**Recommendation:**

This could be addressed in Section 11311 by adding the following language as new subsection (a):

> A LEA shall establish and allow enrollment in any language acquisition programs requested by parents in accordance with Educ. Code § 310, to the extent possible.

Clarification of the circumstances under which a district may deny a request is critical to the uniform implementation of the requirements of CA Ed.G.E.. Section 11311(g)(2) states that when the numerical triggers have been met, a school district shall, “Identify resources necessary to implement a language acquisition program, including but not limited to certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals.” However, it does not explain how these resources would factor into a determination that it is possible or not possible to implement the requested program immediately or in the future. The regulations must be augmented to address this deficiency.

b. **The regulations should clarify and strengthen the type and form of notice required when a school district denies a parental request for a language acquisition program.**

The proposed notice provisions are also inadequate. Section 11311(g)(3)(B) of the proposed regulation, applying to language acquisition programs, reads:

> [i]n the case where the LEA determines it is not possible to implement a language acquisition program requested by parents, the LEA shall provide an explanation of the reason(s) the program cannot be implemented in the school and may offer an alternate option that can be implemented at the school.

The regulations must be modified to specify the form that the denials are required to take as well as their content. All explanations of denial should be required to be in writing.
Furthermore, § 11311(g)(3)(B) is inadequate to the extent that it contains no requirement that the explanation be reasonable or delineate specific reasons, saying only that the denying school district “may” offer an alternative. Particularly given that the school district is given 90 days to respond, a substantial widow, the requesting parties are entitled to a reasonable explanation that they can understand and respond to. For context, under the parental waiver section of the current regulations § 11309, which is rendered unnecessary by the repeal of Proposition 227:

> parents and guardians must be provided with a full written description and, upon request from a parent or guardian, a spoken description of the structured English immersion program and any alternative courses of study and all educational opportunities offered by the school district and available to the pupil.

Similar standards should apply here. This type of notice is necessary to create the type of parental engagement envisioned by CA Ed.G.E. It also provides parents a basis on which to challenge decisions with which they do not agree.

c. A response time of 90 days to act on parental requests encourages needless delay.

Under § 11311(g)(3) of the proposed regulations, school districts are given 90 days to respond to parental requests for language acquisition programs. This time-frame nearly triples the allotted time for similar processes under Proposition 227. When parents sought waivers under Proposition 227, the comparable time frame read:

> all parental exception waivers shall be acted upon by the school within twenty (20) instructional days of submission to the school principal. However, parental waiver requests under Education Code § 311(c) shall not be acted upon during the thirty (30)-day placement in an English language classroom. These waivers must be acted upon either no later than ten (10) calendar days after the expiration of that thirty (30)-day English language classroom placement or within twenty (20) instructional days of submission of the parental waiver to the school principal, whichever is later.” § 11309.

A similar time-frame is needed under these regulations.

Recommendation:

The regulations should be revised to include a requirement that the district notify the requesting parent within five school days about whether the requested program is currently available, or whether the trigger for such a program has or has not been reached. Districts should have to similarly advise requesting parents within five school days after the threshold is met if that
occurs at a later time. Finally, the time within which the district must determine whether it is possible to implement the requested language acquisition program and provide notice, in writing, to parents of pupils attending the school, the school’s teachers, and administrators, of its determination, should be reduced to 30 days.

d. **The proposed regulations should provide parents with a method of appeal.**

In the event that districts do not abide by the requirements of CA Ed.G.E. parents should have a mechanism for appeal that is speedy and effective. Because considerable time will have elapsed between the request and denial; and because failure to establish a program will necessarily be a district level decision; we propose that parents be allowed to appeal directly to the California Department of Education, or State Board of Education.

e. **The proposed regulations should facilitate broader stakeholder engagement in the creation of language acquisition programs.**

The purpose of § 11309 as proposed is to “connect Ed. Code § 305(a)(1), (2) and § 306(c) with the federal obligations for the creation, implementation and evaluation of language acquisition programs for English learners. The obligations detailed in [that] section are supported by 20 U.S.C. § 1703.” (ISR at 5.) Largely, these obligations are exactly in keeping with the goals of CA Ed.G.E, but more could be done to encourage stakeholder engagement.

f. **Proposed Regulation § 11311(i) is Inconsistent with Educ. Code § 310.**

Section 11311(i) of the proposed regulations reads as follows:

A school *may* consider requests from parents of pupils enrolled in the school who are native speakers of English when determining whether a threshold specified in subdivision (g) is reached. (Emphasis added.)

Educ. Code § 310 does not make a distinction between parents of EL students and parents of native speakers of English with respect to determining the numerical triggers. Rather the provision refers broadly to “parents or legal guardians of pupils.” This is of particular importance with respect to a request for a dual-language immersion program. As noted above, although the proposed regulations do not acknowledge such programs as a “language acquisition program,” the statute does and defines such programs as:
Dual-language immersion programs that provide integrated language learning and academic instruction for native speakers of English and native speakers of another language, with the goals of high academic achievement, first and second language proficiency, and cross-cultural understanding. Educ. Code § 306(c)(1). (Emphasis added.)

The statute certainly requires that the parents of native English speakers be given the opportunity to request a dual-language immersion program along with the parents of EL students. Allowing a school district to not consider requests from the parents of native English speakers when determining numerical triggers would be inconsistent with the statute and would basically mean that dual-language immersion programs would rarely be implemented.

**Recommendation:**

Proposed regulation § 11311(i) should read as follows:

A school **shall** consider requests from parents of pupils enrolled in the school who are native speakers of English when determining whether a threshold specified in subdivision (g) is reached.

6) **Section 11316 Should be Clarified to Ensure That Notice is Provided in the Primary Language Whenever Practicable.**

School districts are required to comply with the anti-discrimination provisions of various state and federal laws, many of which make clear that an agency receiving state or federal funding must provide effective notice of key programs, irrespective of whether an arbitrary threshold is met in any particular language. Title VI of the Civil Rights Act of 1964, 20 U.S.C. 2000d, and its implementing regulations at 34 C.F.R. § 100.3(a). “School districts and S[tate] E[ducational] A[gencies] have an obligation to ensure meaningful communication with LEP parents in a language they can understand and to adequately notify LEP parents of information about any program, service, or activity of a school district or SEA that is called to the attention of non-LEP parents.”6 See also, the Equal Educational Opportunities Act, 20 U.S.C. §§ 1701-1720. Gov. Code § 11135 mandates that students and parents be provided “full and equal access to the benefits of” and not be “unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency.”

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6 Dear Colleague Letter - Guidance to Ensure English Learner Students Have Access to a High-Quality Education, Office for Civil Rights and Department of Justice, (Jan. 7, 2015) page 37.
regulations, in fact, cite to some of these obligations, but then impose only the minimum standard for compliance with language access obligations by referring to Educ. Code § 48985 which requires translation only at school sites where 15% or more of students enrolled speak a single primary language other than English. This is simply not adequate when drafting a regulation that is expressly designed to provide notice to and elicit input from non-English speakers about programs for their children.

**Recommendation:**

We propose that Section 11316 be revised to ensure that translated notices are provided unless it would be an unreasonable burden to do so.

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

All notices and other communications to parents or guardians required or permitted by these regulations must be provided in English and in the parents' or guardians' primary language unless provision of such notice is impracticable.


**III. CONCLUSION**

We believe that it is of paramount importance that the implementation of the CA Ed.G.E. Initiative be in keeping with its stated values, allowing people from many different walks of life to engage in the rulemaking process. To that end, we hope that further efforts will be made to provide more opportunity for comment and consideration by issuing a new notice, in appropriate languages, and consider convening hearings or stakeholder meetings for input from those communities. We are encouraged by the development of a system that allows all parents to request a language acquisition program that best fits their children’s educational needs. In order for the program to meet its potential, schools must include all interested parents in the development of programs, provide meaningful notice of the program election process and not be permitted to simply deny these requests without meaningful explanation.

cc: Members, State Board of Education
    Tom Torlakson, State Superintendent of Public Instruction
EXHIBIT A
Aug. 17, 2017

Dr. Michael W. Kirst, President State Board of Education
1430 N Street, Room 5111
Sacramento, CA 95814-5901  sbe@cde.ca.gov

Re: The State Board of Education Must Make the "Notice of Proposed Rulemaking - Amendment to California Code of Regulations, Title 5, Regarding California Education for a Global Economy Initiative" Accessible to the Parents of English Learner Students.

Dear President Kirst and State Board of Education Members: We write to you as a coalition of community-based groups, educational organizations, public interest law firms and civil rights organizations concerned about the failure of the State Board of Education (SBE) to provide the Limited English Proficient (LEP) parents of California's English Learner (EL) students meaningful access to the regulatory process regarding an issue of utmost importance to the education of their children.

As you are aware, in November 2016, the citizens of California voted overwhelmingly to repeal Proposition 227 and to replace it with Proposition 58, also known as the California Education for a Global Economy (CA Ed.G.E.) Initiative.1

Proposition 227 required that "all children in California public schools shall be taught English by being taught in English." In sharp contrast the CA Ed.G.E. Initiative recognizes that multilingual learning is beneficial for all students as well as a coveted ability in the broader California economy. To that end, it allows EL students to develop skills that lead to their proficiency in English and another language. The Initiative also recognizes the role of LEP parents to determine the program best suited to address the language needs of their children, "All parents will have a choice and voice to demand the best education for their children, including access to language programs that will improve their children's preparation for college and careers, and allow them to be more competitive in a global economy." (Educ. Code § 300 (k)).

The SBE's "Notice of Proposed Rulemaking" concerning the CA Ed.G.E. Initiative was posted on the California Department of Education's (CDE) website on July 28, 2017. The 45-day Public Comment period began on July 29, 2017, and ends on September 11, 2017.2 The proposed regulations amend some existing regulations and include several new provisions to Title 5 of the California Code of Regulations (CCR) related to the education of EL students, including Sections 11300, 11301, 11309, 11310, 11311, 11312 and 11316. Proposed amendments to § 11300 include several new definitions, including how "Parents" and "Parent advisory committee" are defined. Section 11309 is amended to address language acquisition programs identified under the Initiative.

1 Proposition 58 won by the largest margin of any other initiative on the ballot, with 73.5% of California voters voting in favor of the Initiative and 26.5 voting against it.
Several of the proposed provisions directly address the role of parents and other stakeholders in choosing the language acquisition programs to be made available within a school district. Proposed regulation § 11301 -- "Community Engagement"-- refers to the process for receiving input from parents through the development of a school district's Local Control and Accountability Plan (LCAP). Proposed regulation § 11310 - "Parental Notice" -- details how parents are to be notified of the language acquisition programs to be provided by a school district. Proposed regulation § 11311 -- "Parental Requests for Language Acquisition Programs" -- addresses how school districts are to establish a process to receive and respond to parental requests to establish specific language acquisition programs. All of these proposed regulations are of utmost importance to the parents of EL students in determining how they can meaningfully exercise their rights as parents to advocate for programs to meet the educational needs of their children. These parents should have a meaningful opportunity to learn about and to comment on how the State should implement an Initiative that was passed for the benefit of their children. It is deeply ironic that a fundamental purpose of CA Ed.G.E. initiative is to provide greater opportunity for EL students and their parents, yet all of the rulemaking information is publicly available solely in English.

The SBE must acknowledge that California has the largest EL student population in the United States and to conduct its business accordingly. Approximately 21.4% of all students enrolled in California schools are identified as EL. Another 21.3% of all students enrolled in California schools are Fluent English Proficient (FEP), which means that 43% of all California students come from homes where English is not the primary language. Of the approximately 1.3 million EL students enrolled in California public schools, 83.1% are Spanish speaking. The next two largest EL student language groups are: 1) Vietnamese (2.1%); and, 2) Mandarin (1.6%). Of the approximately 1.3 million FEP students enrolled in our public schools, 72.6% come from homes were Spanish is the primary language. The next two largest FEP language groups include: 1) Vietnamese (4.0%); and, 2) Mandarin (3.0%). Despite this large representation of non-

2 See, CDE website page "Rulemaking documents relating to the California Education for a Global Economy Initiative"

3 See, CDE DataQuest report entitled, "English Learner Students by Language by Grade - State of California - 2016-17"

4 See, CDE DataQuest report entitled, "Fluent-English-Proficient Students by Language by Grade - State of California - 2016-17"
English speakers and concentration of Spanish speakers the SBE has published and advertised these regulatory proposals, notices of meetings, and requests for comment in English only.

Optimally, the State Board should provide information in the languages of the top ten language groups of our EL students, which include: Spanish, Vietnamese, Mandarin, Filipino, Arabic, Cantonese, Korean, Hmong, Punjabi and Russian. But it is particularly baffling that it would not be provided in Spanish, given that state-wide 1,107,214 EL students speak Spanish. An additional 961,418 students are classified as FEP Spanish speakers. In total, 2,068,632 students, or 33%, of all students enrolled in California schools come from homes where Spanish is the primary language. At a minimum, some effort should have been made to meaningfully include the parents of these children in this regulatory process, but no such effort was made. Instead, the manner in which the State Board has undertaken this rulemaking process undermines the stated Legislative intent of the CA Ed.G.E. Initiative, which is premised on the fact that California has a moral and constitutional obligation to provide educational programs for all students regardless of ethnicity or national origin that ensure that they obtain the highest quality education, master the English language, and have access to high quality, innovative, and research-based language programs. (Educ. Code§ 300 subsections (h), (n)). It also violates federal and state laws that are designed to ensure equal access to services provided by the State and its agencies.

The SBE is required under federal law to ensure that limited and non-English speaking parents are provided and receive important information provided to other parents in a language they can understand. (Title VI of the Civil Rights Act of 1964, 20 U.S.C. 2000d, and its implementing regulations at 34 C.F.R. § 100.3(a)). "School districts and S[tate] E[ducational] A[gencies] have an obligation to ensure meaningful communication with LEP parents in a language they can understand and to adequately notify LEP parents of information about any program, service, or activity of a school district or SEA that is called to the attention of non-LEP parents."5 (See also, the Equal Educational Opportunities Act, 20 U.S.C. §§ 1701-1720). Under the Dymally-Allatorre Bilingual Services Act, state agencies have an obligation to ensure that any materials explaining services to the public be translated into any non-English language spoken by a substantial number of the public served by the agency.6 (Gov. Code§ 7295). Gov. Code § 11135 mandates that students and parents be provided "full and equal access to the benefits of" and not be "unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency..."

5 Dear Colleague Letter - Guidance to Ensure English Learner Students Have Access to a High-Quality Education, Office for Civil Rights and Department of Justice, (Jan. 7, 2015) page 37.

Given the above, we therefore request that the SBE immediately devote resources to translate the public documents related to the CA Ed.G.E Initiative rulemaking process into the top ten languages spoken by California's EL students and that they be posted as soon as possible on the CDE's rulemaking website. We also request that the time to submit comments with respect to the CA Ed.G.E Initiative proposed regulations be suspended until such time as the translated versions are posted, with a new extended 45-day comment period.

Compounding the problem with respect to EL parent access to the regulatory process is the fact that the public hearing concerning these regulations will be held at 1:30 p.m. on September 11, 2017. This is a weekday when many community members will be unable to attend because of work and family obligations. This timing makes it unlikely that the people most affected by the proposed regulations will be able to meaningfully engage in the rulemaking process. This exclusion is particularly nonsensical given that the proposed regulations purport to encourage stakeholder engagement. To address the unlawful exclusion of EL parents, we ask that the Special Hearing now scheduled for September 11th be postponed and that two hearings be scheduled once the translated versions of the rulemaking materials are posted. One hearing should be held in Northern California and the other should be held in Southern California on days and times that are more accessible to working immigrant parents.

In conclusion, we request that you take the necessary steps to come into compliance with your obligations under state and federal law to translate these important documents for the State's LEP parents and that the comment period be extended and hearing process be revised to address the needs of the parents of EL students. Please inform us by August 25, 2017, whether you intend to come into compliance with the law. If you have any questions about our request, please contact either Cynthia Rice or Deborah Escobedo through the contact information provided below.

Thank you for your consideration,

/s/
Deborah Escobedo Senior Attorney, Racial Justice-Education Lawyers' Committee for Civil Rights 131 Steuart Street, Suite 400 San Francisco, CA 94105 Tel: (415) 543-9444 x201 Email: descobedo@lccr.com

/s/
Cynthia L. Rice, Director of Litigation, Advocacy & Training California Rural Legal Assistance, Inc. 1430 Franklin Street, Suite 103 Oakland, CA 94612 Tel: (510) 267-0762 x323 Email: crice@crla.org
On behalf of:

Betty Hung, Policy Director
Asian Americans Advancing Justice ILos Angeles

Dolores Huerta, President
Dolores Huerta Foundation

Marisa Diaz, Staff Attorney
Christopher Ho, Senior Staff
Attorney Stacy Villalobos, Skadden
Fellow Legal Aid at Work

Joann H. Lee, Directing Attorney
Legal Aid Foundation of Los Angeles

Jill E. Sowards, Staff Attorney
Legal Services of Northern California

Jordan Thierry, Senior Program Associate
Policylink

cc: The Honorable Tom Torlakson, State Superintendent of Public Instruction
Karen Stapf Walters, Executive Director, State Board of Education
Judy M. Cias, Chief Counsel, State Board of Education
Attachment 4d
Referenced in Attachment 3, Page 2

Jorge Cuevas-Antillon
The following summary describes the recommendations by the public commenter. To obtain a copy of the public comment, you may contact the Regulations Coordinator by e-mail at regcomments@cde.ca.gov or fax at 916-319-0155.

Section 11300
(a) “Designated English Language Development”**: add “(D-ELD)”
(c) “Integrated English Language Development”: add “(I-ELD)”
(d) “Language acquisition programs”: add “(LAPs)”
(e) “Language Programs are programs that are…”: change to “Multilingual Programs (MLPs) are Language Acquisition Programs that are” and add as a last sentence, “Multilingual Programs include Dual Language Immersion, Transitional and Developmental Language Acquisition Programs.”
(h) “Parent advisory committee”: add (PAC)
(i) “Parents” means the natural or adoptive parents, legal guardians, or other persons…”: change to “Parents” means the natural or adoptive parents, legal guardians, or other caretakers…”
(l) “State-adopted English language development”: add (ELD)
(m) “language acquisition program…”: change to “Language Acquisition Program…”

Section 11301
(a) “English learner parent advisory committee and the parent advisory committee, regarding the LEA’s existing language acquisition programs…”.
Change to: As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English Learner Parent Advisory Committee (ELPAC) and the Parent Advisory Committee (PAC), regarding the LEA’s existing language acquisition programs (Multilingual and SEI Programs)…”.
Section 11311

(a) “An LEA shall establish a process for schools of the LEA to receive and respond to requests from parents of pupils enrolled in the school to establish language acquisition programs other than, or in addition to, such programs provided...”: change to “An LEA shall define and name language acquisition programs available per site via information easily accessible to the public. Additionally, the LEA shall establish a process for schools of the LEA to receive and respond to requests from parents of pupils enrolled in the school to establish language acquisition programs other than, or in addition to, such programs already provided...”

(c) “Each school shall assist parents in clarifying requests, as needed.” Change to “Each school shall assist parents in clarifying requests, such as program type, as needed.”

(e) “… submit a request for a language acquisition program.” Change to “… submit a request for a particular language acquisition program.”

(f) “Each school shall monitor the number of parent requests for language...” change to “Each school shall monitor the number of parent requests for any language...”

(g)(1) “Notify the parents of pupils attending the school, the school’s teachers, and administrators, in writing, of the parents’ requests for a language acquisition program.”: change to “Notify the parents of pupils attending the school, the school’s teachers, and administrators, in writing, of the parents’ requests for a language acquisition program, including formal notification to the LEA ELPAC and PAC;”

(2) “Identify resources necessary to implement a language...”: change to “Identify costs and resources necessary to implement any new language...”
To Whom It May Concern,

I am a secondary teacher and coach with over 20 years of experience teaching ELs. I wanted to share my comments on the CA EdGE proposed changes.

In Section 11300, Definitions:

The proposed addition and language in Parts a), b), d), and e) of the definitions, which define Designated ELD, Integrated ELD, and Language Acquisition Programs versus Language Programs are clear and well-stated. They are excellent additions to our state laws and regulations.

Thank you for gathering this input.

Best regards,

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Jessica Murray
English Learner Instructional Resource Teacher (ELIRT), Secondary
Dept. of Curriculum, Instruction, and Assessment
Santa Cruz City Schools
405 Old San Jose Rd., Building 300
Soquel, CA 95073
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"Progress begins with the belief that what is necessary is possible."
-- Norman Cousins
David Dolson
The following summary describes the recommendations by the public commenter. To obtain a copy of the public comment, you may contact the Regulations Coordinator by e-mail at regcomments@cde.ca.gov or fax at 916-319-0155.

Section 11309
Add:  (f) When instruction is provided in and through a language other than English, such instruction shall be based on the assessed individual needs of the native speakers of English and the native speakers of the other language.

Section 11311
Add language in bold:
(A) In the case where the LEA determines it is not possible to implement a language acquisition program requested by parents, the LEA shall provide an explanation of the reason(s) the program cannot be provided, and shall take reasonable steps to offer a suitable alternate option that can be implemented at the school as well as enrollment of pupils in the requested language acquisition option at another school in the LEA.
Attachment 4g
Referenced in Attachment 3, Page 2

Patricia Alverson, Regulations Coordinator
Administrative Support and Regulations Adoption Unit
California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

Regarding: Input and Comments on the proposed Title V Regulations for California Education for a Global Economy (CA Ed.G.E.)

California State PTA shares with many other organizations both interest and excitement regarding the opportunities for expanded program options leading to multilingualism for all of California’s students.

We endorse the following recommendations made by Californians Together in order to bring additional clarity and direction to the language of CA Ed.G.E. and believe they should be considered in modifying the proposed regulations.

1. The definition of Parent Engagement must include and go beyond the advice of the English Learner Advisory Committee. The LCAP process for parent engagement is an outreach to all parents not just advisory committees. In addition, the language acquisition programs are for English Learners and parents of native English speakers. Only consulting the LCAP English Learner Advisory Committee does not include engagement of all parents and is a very limited definition for engagement in the process of establishing language acquisition programs.

2. The definition of “Language Acquisition Program” is confusing and creates the new category of “Language Program” which is not referenced in CA Ed. G. E. The regulations reference language acquisition programs and language programs. CA Ed. G. E. only specifies language acquisition programs and that definition includes “The language acquisition programs provided to pupils shall be informed by research and shall lead to grade level proficiency and academic achievement in both English and another language.” This language should be included in the regulations and the language program should be deleted.

3. Definitions should include Dual Language Immersion, Transitional and Developmental Language Acquisition Programs. The definitions must define all language acquisition programs not just Structured English Immersion.

There needs to be clarification that notification determining the language acquisition programs are for all parents to enroll their children. All notifications should be available in the languages spoken at that school. The timeline of 90 calendar days for a school to determine whether or not it is practicable to offer such a program is too long, could cause a year delay in program implementation and discourage parents to continue with their request. This period should not exceed 20-30 days. In the event the school decides it is not able to offer the program, there needs to be an appeal process delineated in the regulations.

In addition, California State PTA makes the following comments and recommendations related to specific language in Title 5. Education, Division 1. Chapter 11. Special Programs, Subchapter 4. English Language Learner Education

Comment/Recommendation #1

Section 11300. Definitions. On Page 1, line 16 there is a reference to “protected time” during the regular school day in which there is a focus on state adopted English language development (ELD) standards to assist English learners. However, “protected time” is not defined.

PTA recommends that the CDE and State Board define “protected time” in further detail within the regulations that allows for public comment. Otherwise, teachers and parents will not know what to expect nor anticipate for each English learner in terms of their rights and access to ELD.

Comment/Recommendation #2

On Page 2, line 15 “Stakeholders” means parents, pupils, teachers, administrators, other school personnel, and interested members of the public.

Comment/Recommendation – PTA recommends inserting “and families” after parents. We would make the same recommendation throughout the regulations wherever “parents” are referenced.

Comment/Recommendation #3

Section 11301 Community Engagement
Recommendation: On Page 3 beginning on line 18 amend to read:
(a) As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English learner parent advisory committee and the parent advisory committee, and other parent and family organizations on school sites including but not limited to the Parent Teacher Association, school site councils, and other groups, regarding the LEA’s existing
language acquisition programs and language programs, and establishing other such programs.

Comment/Recommendation #4
Section 11310 Parental Notice
Recommendation: Page 6, lines 31 and 32 amend to read:
.....The notice specified in this section shall include a description of the process for parents and families, along with the timeline and deadlines, to request a language acquisition program or language program for their child.

Respectfully submitted on behalf of California State PTA by Mary Perry, Vice President for Education
Regarding: Input and Comments on the proposed Title V Regulations for California Education for a Global Economy (CA Ed.G.E.)

There is much interest and excitement about the opportunities for expanded program options leading to multilingualism for all of California’s students. The Title V regulations need to capture the intent and language of Proposition 58 to facilitate implementation. The following comments on the regulations are presented to bring additional clarity and direction to the language of CA Ed.G.E. and should be considered in modifying the proposed regulations.

1. **The definition of Parent Engagement must include and go beyond the advice of the English Learner Advisory Committee.** The LCAP process for parent engagement is an outreach to all parents not just advisory committees. In addition, the language acquisition programs are for English Learners and parents of native English speakers. Only consulting the LCAP English Learner Advisory Committee does not include engagement of all parents and is a very limited definition for engagement in the process of establishing language acquisition programs.

2. **The definition of “Language Acquisition Program” is confusing and creates the new category of “Language Program” is not reference in CA Ed. G. E.** The regulations reference language acquisition programs and language programs. CA Ed. G. E. only specifies language acquisition programs and that definition includes “The language acquisition programs provided to pupils shall be informed by research and shall lead to grade level proficiency and academic achievement in both English and another language.” This language should be included in the regulations and the language program should be deleted.

3. **Definitions should include Dual Language Immersion, Transitional and Developmental Language Acquisition Programs.** The definitions must define all language acquisition programs not just Structured English Immersion.

4. **Parent Notification, Procedures, Timeliness and Appeal Process.** There needs to be clarification that notification determining the language
acquisition programs are for all parents to enroll their children. All notifications should be available in the languages spoken at that school. The timeline of 90 calendar days for a school to determine whether or not it is practicable to offer such a program is too long, could cause a year delay in program implementation and discourage parents to continue with their request. This period should not exceed 20-30 days. In the event the school decides it is not able to offer the program, there needs to be an appeal process delineated in the regulations.

I am requesting that the above issued be addressed in a new draft of regulations and another period of time be established for input on the modified regulations.

Sincerely,

(signature)
Re: Comments on Proposed Title V Regulations for California Education for a Global Economy (CA Ed.G.E.)

Dear Ms. Alvarez:

Public Advocates submits comments below in response to the Department of Education’s proposed regulations implementing Proposition 58, the California Education for a Global Economy (CA EDGE) initiative passed by the voters November 8, 2016.

73.5% of voters said yes to expanding high quality language programs that will develop all California students’ multilingualism and multiliteracy as well as English proficiency. It is critical that these Title V regulations capture the intent and language of Proposition 58.

1. **Sec. 11300 Definitions should include Dual Language Immersion, Transitional and Developmental Language Acquisition Programs.** The definitions must define all language acquisition programs that are contained in Proposition 58, not just Structured English Immersion.

2. **Sec. 11300(b) should include current requirements for other English learner advisory committees.** Sec. 11300(b) limits the definition of “English learner parental advisory committee” to the committee established by an LEA to meet LCAP requirements. This definition essentially omits the District English Learner Advisory Committee (DELAC) required in Educ. Code §§ 52176(b)-(c), 62002.5, 64001 and 5 CCR § 113089b) and (c). These other provisions are important because they establish the composition, roles and responsibilities of these committees beyond what is required in the LCAP provisions.

3. **Sec. 11300 should include a definition of English learner.** The intent of Proposition 58 was to adopt the definition of English learner found in federal law. We recommend adding a definition that incorporates the federal definition and is included in California’s current State Plan under ESSA.

   An English learner student is an individual: (A) who is aged 3 through 21; (B)
who is enrolled or preparing to enroll in an elementary school or secondary school; (C) (i) who was not born in the United States or whose native language is a language other than English; (ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and (II) who comes from an environment where a language other than English has had a significant impact on the individual’s level of English language proficiency; or (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and (D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—(i) the ability to meet the challenging state academic standards; (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or (iii) the opportunity to participate fully in society.

4. Sec. 11301 does not adequately reflect the changes to Educ. Code §§ 305 and 306 intended to provide notice about access to three programs: “dual-language immersion programs,” “transitional or developmental programs,” and “Structured English Immersion programs.” Sec. 11301 does not include reference to these three programs. Instead, it requires input on “existing language acquisition programs.” The regulations must provide effective notice to parents and others what types of programs may be available. We recommend that Sec. 11301 track the language of §§ 305 and 306 and that all these programs be defined in Sec. 11300, not just Structured English Immersion programs, to properly reflect Proposition 58.

5. The definition of “Language Acquisition Program” is confusing and creates the new category of “Language Program” which is not intended by Proposition 58. The regulations reference language acquisition programs and language programs. However Proposition 58 only specifies “language acquisition programs” and that definition includes “The language acquisition programs provided to pupils shall be informed by research and shall lead to grade level proficiency and academic achievement in both English and another language.” This language should be included in the regulations and the language program should be deleted.
6. **Sec. 11301 regarding Community Engagement should provide more explicit guidance for capturing in the LCAP input and requests received during the LCAP stakeholder engagement process, as well as through other avenues.** The LCAP engagement process, now in its fifth year, has left many community stakeholders dissatisfied that they were heard, much less listened to. We recommend that the LCAP template be reviewed to address this opportunity of providing greater transparency about rights under Proposition 58.

7. **Parent Notification, Procedures, Timeliness and Appeal Process in Sec. 11311, 11312, and 11316.** Under Proposition 58, notification about the language acquisition programs are for all parents to enroll their children and this should be clear. All notifications should be available in the languages spoken at that school. The timeline of 90 calendar days for a school to determine whether it is practicable to offer such a program is too long, could cause a year delay in program implementation and discourage parents to continue with their request. The response period should not exceed 20-30 days. In the event the school decides it is not able to offer the program, there needs to be an appeal process delineated in the regulations.

8. **Republish the proposed regulations in other languages besides English only.** Proposition 58 was about multilingualism and multiliteracy and undoing the ill effects of Proposition 227, which misled our state and schools toward an English-only paradigm. Despite the fact that California has the largest English learner student population in the country, the proposed regulations were published in English only. Public Advocates supports the request made by a coalition of civil rights and community organizations led by Lawyers Committee for Civil Rights and the California Rural Legal Assistance, Inc. to devote resources to translate the public documents related to Proposition 58’s rulemaking into the top ten languages spoken by California’s English learner students, that they be posted as soon as possible on the CDE’s rulemaking website, and that the comment period be extended an additional 45 days.

If you have questions about Public Advocates’ comments, please do not hesitate to contact me.

Sincerely,

/s/

Liz Guillen
Director of Legislative & Community Affairs
(916) 803-5596 – cell

Cc: State Board of Education
    State Superintendent of Public Instruction Tom Torlakson
SUMMARY OF THE ISSUE(S)

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

In July 2017, the CDE submitted proposed amendments to the SBE to the 5 CCR sections 11300, 11301, 11309, 11310, and 11316, and proposed new sections 11311 and 11312. These proposed amendments to the regulations were approved by the SBE at its July 2017 meeting and the rulemaking process commenced on July 29, 2017. At the conclusion of the 45-day public comment period, a public hearing was held on September 11, 2017. One attendee provided comments at the public hearing, and 19 written comments were received during the 45-day comment period.

After its review, the CDE revised the proposed regulations. The proposed changes are presented in the attached 15-day Notice of Modifications (Attachment 1) and the proposed regulations (Attachment 2).

RECOMMENDATION

The CDE recommends the SBE take the following actions:

- Approve the proposed changes to the proposed regulations.
• Direct that the proposed changes be circulated for a 15-day public comment period in accordance with Administrative Procedure Act.

• If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed regulations with changes are deemed adopted, and the CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval.

• If any relevant comments to the proposed changes are received during the 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE’s January 2018 meeting agenda for action.

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

BRIEF HISTORY OF KEY ISSUES

Prior to 1998, California schools could readily provide bilingual programs to meet the needs of English learners. Proposition 227, approved by the voters, created an “English Only” sentiment that became a barrier to the implementation of these programs. Proposition 227 specified that English learner pupils be educated through a sheltered English immersion process during a temporary transition period not normally to exceed one year. Participation in sheltered English immersion could be waived through a process initiated by a written request for a bilingual program from a pupil's parent or legal guardian. Proposition 227 required, among other things, that “all children in California public schools be taught English by being taught in English” (EC Section 305).

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

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

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

1. The inclusion of parents and community members while considering the establishment and implementation of language acquisition programs at school districts or county offices of education, during the development of local control and accountability plans.
2. Notification to parents regarding the language acquisition programs available in the school district or county office of education.

3. A process for receiving and responding to parent requests for language acquisition programs provided at a school site.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

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

http://www.cde.ca.gov/be/ag/ag/yr17/documents/jul17item06.doc

FISCAL ANALYSIS (AS APPROPRIATE)

The proposed amendments to these regulations will not result in any additional costs or savings to local educational agencies, state agencies, or federal funding to the State.

An Economic Fiscal Impact Statement is provided as Attachment 5.

ATTACHMENT(S)

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

Attachment 2: Proposed Regulations (10 pages)

Attachment 3: Final Statement of Reasons (5 pages)

Attachment 4: Summary of Public Comments (21 pages)

Attachment 4a–4h: Copies of Written Comments (75 pages)

Attachment 5: Economic and Fiscal Impact Statement (STD. 399) (5 pages)
November 13, 2017

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

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

Changes to the text:

General changes were made to the regulations to include grammatical edits, and renumbering and/or re-lettering to reflect deletions or additions.

After the 45-day comment period, the following changes were made to the proposed text of the regulations and sent out for a 15-day comment period:

Current title of Chapter 11, Subchapter 4 is amended from “English Language Learner Education” to “Multilingual and English Learner Education.” “Multilingual” is added to include the types of programs available under California Education Code (EC) sections 305, 306, and 310 (other than Structured English Immersion [SEI]). The word “Language” is deleted from “English Language Learners” to align the title with the term “English learner” used in the statute.

Proposed Section 11300(a) is amended to reword the section, including replacing “protected time” with “time set aside during the regular school day.” This change is necessary to specify when and how Designated English Language Development instruction is carried out.

Proposed Section 11300(d) is amended to add language to the definition of “language acquisition programs.” The new language specifically names the language acquisition programs described in the statute. This addition is necessary to align the definition to the definition of language acquisition programs in EC Section 306(c).
**Proposed Section 11300(h)** is added to provide a definition of "multilingual." This definition is necessary to clarify the use of the term in these regulations.

**Former Proposed Section 11300(m)** is deleted. Structured English Immersion is defined in **EC** Section 306(c)(3), therefore is not necessary in regulations.

**Proposed Sections 11301(a) and (c)** are amended to add “if applicable” after “English Learner parent advisory committee.” This change is necessary to align the language in this section with **EC** Section 52062.

**Proposed Section 11309(c)(3)(A)** is amended to replace “if applicable, another” with “when the program model includes instruction in another language, proficiency in that other.” This change is necessary to clarify that proficiency in another language applies when a student participates in a language acquisition program designed for that purpose.

**Proposed Section 11309(c)(3)(B)** is amended to replace “if applicable” with “when the program model includes instruction in another language, achievement in that other.” This change is necessary to clarify that academic achievement in another language applies when a student participates in a language acquisition program designed for that purpose.

**Proposed Section 11309(d)** is amended to add language regarding the inclusion of Designated and Integrated English Language Development (ELD) in an SEI program. This addition emphasizes that SEI is a fully articulated language acquisition program, with the same services required for English learners as any other language acquisition program.

**Proposed Section 11309(e)** is amended to delete “in addition to SEI.” The deleted language is not necessary for the purposes of the section, which is to specify that a language acquisition program may serve both English learners and native speakers of English.

**Proposed Section 11310(a)** is amended to delete “any,” and replace “provided by” with “available in.” The change does not modify the meaning of the section.

**Proposed Section 11310(b)(2)** is amended to add “when the program model includes instruction in another language.” This addition is necessary to specify that the description must identify the additional language of instruction when the program design includes an additional language of instruction.

**Proposed Section 11310(b)(4)** is added to require that the notice include a description of the process for parents to request to establish a new language acquisition program at a school. This is necessary to ensure parents know how to request a new language acquisition program pursuant to **EC** Section 310.
Proposed Section 11311 amends the title of this section to replace “for” with “to establish a.” This modification is necessary to designate that the purpose of this section is to address parent requests to establish a new language acquisition program, rather than choosing a program that already exists.

Proposed Section 11311(a) is amended to add “a” and replace “provided” with “available.” These changes bring this section into alignment with the title of this section and language changes in section 11310 of these regulations.

Proposed Section 11311(f), formerly (i), is amended to replace “may” with “shall,” and adds “for a multilingual program model.” The changes are necessary to clarify to local educational agencies (LEA) that all parent requests count toward reaching the stated thresholds in cases where the requested program model goal is multilingualism.

Proposed Section 11311(h), formerly (g), is amended to remove the word “immediately.” This time requirement for a LEA to notify parents that a threshold has been met has been moved to section 11312(h)(1).

Proposed Section 11311(h)(1), formerly (g)(1), is amended to require that LEAs notify parents, teachers, and administrators “within 10 school days” of a threshold being reached. This change is necessary to provide a specified time within which LEAs must provide the required notification.

Proposed Section 11311(h)(2), formerly (g)(2), is amended to include “costs and” and “any new” to the language in this section. These additions provide further specificity on what an LEA is expected to include in their assessment for possible implementation of a language acquisition program or language program.

Proposed Section 11311(h)(3), formerly (g)(3), is amended to replace “90” with “60” calendar days, reducing the number of days for an LEA to determine whether it is possible to implement the requested language acquisition program. This regulation is necessary to ensure LEAs respond to parent requests in a timely manner.

Proposed Section 11311(h)(3)(B), formerly (g)(3)(B), is amended to require that the explanation of why it is not possible to implement a language acquisition program requested by parents is provided by the LEA in written form. This addition is necessary to maintain transparency regarding the process of responding to parent requests for a language acquisition program.

Proposed Section 11316 is amended to delete an incorrect citation.
If you have any comments regarding the proposed changes that are the topic of this 15-day Notice, the SBE will accept written comments between November 13, 2017, and November 28, 2017, inclusive. All written comments must be submitted to the Regulations Coordinator via facsimile at 916-319-0155, by e-mail at regcomments@cde.ca.gov, or mailed and received at the following address by close of business at 5:00 p.m. on November 28, 2017, and addressed to:

Patricia Alverson, Regulations Coordinator
Legal, Audits and Compliance Branch
Administrative Supports and Regulations Adoption Unit
California Department of Education
1430 N Street, Suite 5319
Sacramento, CA 95814

All written comments received by 5:00 p.m. on November 28, 2017, which pertain to the indicated changes will be reviewed and responded to by California Department of Education (CDE) staff as part of the compilation of the rulemaking file. Written comments received by the CDE staff during the public comment period are subject to viewing under the Public Records Act.

Please note: Any written comments are to be restricted to the recent modifications as shown in the enclosed language. The SBE is not required to respond to comments received in response to this Notice on other aspects of the proposed regulations.
The State Board of Education has illustrated changes to the original text in the following manner: text originally proposed to be added is underlined; text proposed to be deleted is displayed in strikeout.

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

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 11. Special Programs

Subchapter 4. Multilingual and English Language Learner Education

§ 11300. Definitions.

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

(a) “Designated English Language Development” means instruction provided during a time set aside in the regular school day for protected time during the regular school day, in which there is a focused instruction on the state-adopted English language development (ELD) standards to assist English learners to develop critical English language skills necessary for academic content learning in English.

(b) “English learner parent advisory committee,” means the committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063 and 52069, and Title 5 California Code of Regulations section 15495(b).

(c) “Integrated English Language Development” means instruction in which the state-adopted ELD standards are used in tandem with the state-adopted academic content standards. Integrated ELD includes specially designed academic instruction in English.

(d) “Language acquisition programs” are educational programs designed for English learners to ensure English acquisition as rapidly and effectively as possible, that provide instruction to these pupils on the state-adopted academic content and ELD standards.
through Integrated and Designated ELD, and that meet the requirements described in
section 11309 of this subchapter. **Language acquisition programs may include, but
are not limited to, dual language programs, transitional and developmental
programs for English learners, and Structured English Immersion, as specified in**
**Education Code section 306, subdivision (c).**

(e) “Language programs” are programs that are designed to provide opportunities for
pupils to be instructed in languages other than English to a degree sufficient to produce
proficiency in those languages, consistent with the provisions of Education Code section
305, subdivision (c).

(f) “Local control and accountability plan (LCAP)” means the plan created by a local
educational agency (LEA) pursuant to Education Code sections 52060 or 52066, as
applicable to the LEA.

(g) “Local educational agency (LEA)” means a school district or county office of
education.

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

(i) “Parent advisory committee” means a committee established by a school
district or county superintendent of schools pursuant to Education Code sections 52063
or 52069.

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

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

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

(m) “State-adopted English language development standards” means standards
adopted pursuant to Education Code section 60811.
(m) “Structured English Immersion (SEI)” means a language acquisition program, where nearly all instruction is provided in English, with a curriculum and presentation designed for pupils who are learning English.

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

§ 11301. Knowledge and Fluency in English.

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

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

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


§ 11301. Community Engagement.

(a) As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English learner parent advisory
committee, if applicable, and the parent advisory committee, regarding the LEA’s existing language acquisition programs and language programs, and establishing other such programs.

(b) An LEA process for informing stakeholders and receiving input may include procedures such as stakeholder surveys, forums, and meetings with school advisory committees, or other groups representing stakeholders.

(c) Prior to adoption of an LEA’s LCAP, the school district superintendent or the county superintendent of schools shall include a written response to input received from the LEA’s English learner parent advisory committee, if applicable, and parent advisory committee relating to language acquisition programs and language programs with the superintendent’s response as described in Education Code sections 52062 and 52068.


§ 11309. Parental Exception Waivers.

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

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

1. Parents and guardians must be provided with a full written description and upon request from a parent or guardian, a spoken description of the structured English immersion program and any alternative courses of study and all educational opportunities offered by the school district and available to the pupil. The descriptions of the program choices shall address the educational materials to be used in the different options.
(2) Pursuant to Education Code section 311(c), parents and guardians must be informed that the pupil must be placed for a period of not less than thirty (30) calendar days in an English language classroom and that the school district superintendent must approve the waiver pursuant to guidelines established by the local governing board.

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

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

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

(d) In cases where a parental exception waiver pursuant to Education Code sections 311(b) and (c) is denied, the parents and guardians must be informed in writing of the reason(s) for denial and advised that they may appeal the decision to the local board of education if such an appeal is authorized by the local board of education, or to the court.
(e) For waivers pursuant to Education Code section 311(a) and for students for whom standardized assessment data is not available, school districts may use equivalent measures as determined by the local governing board.


§ 11309. Language Acquisition Programs.

(a) LEAs shall provide language acquisition programs for English learners consistent with these regulations.

(b) Whenever an LEA establishes a language acquisition program, the LEA shall confer with school personnel, including teachers and administrators with authorizations required to provide or oversee programs and services for English learners, regarding the design and content of the language acquisition program.

(c) Any language acquisition program provided by an LEA shall:

(1) Be designed using evidence-based research and include both Designated and Integrated ELD;

(2) Be allocated sufficient resources by the LEA to be effectively implemented, including, but not limited to certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals; and

(3) Within a reasonable period of time, lead to:

(A) Proficiency in English, and, if applicable when the program model includes instruction in another language, proficiency in that other language; and

(B) Achievement of the state-adopted content standards in English, and, if applicable when the program model includes instruction in another language, achievement in that other language.

(d) At a minimum, an LEA shall provide a program of SEI Structured English Immersion for English learners, which includes Designated and Integrated ELD.
(e) An LEA may provide language acquisition programs in addition to SEI, including programs that integrate instruction for native speakers of English and native speakers of another language, and meet the requirements of subdivision (c).


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

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


§ 11310. Parental Notice.

(a) An LEA shall notify parents of the language acquisition programs and any language programs provided by available in the LEA at the time and in the manner specified in Education Code sections 48980 and 48981. The notice specified in this section shall include a description of the process for parents to request a language acquisition program or language program for their child.

(b) The notice for language acquisition programs, the notice shall include:

(1) A description of any such programs provided, including SEI Structured English Immersion;
(2) Identification of any language to be taught in addition to English, if applicable when the program model includes instruction in another language; and

(3) The information set forth in section 11309(c); and

(4) The process to request establishment of a language acquisition program not offered at the school.

(c) The notice for Regarding language programs, the notice shall specify the language(s) to be taught, and may include the program goals, methodology used, and evidence of the proposed program’s effectiveness.

(d) Parents of pupils enrolling in the LEA after the beginning of the academic school year shall be provided the notice described in subdivision (a) above upon enrollment.

An LEA may provide notice to parents at additional times throughout the year.

(e) The notice to parents pursuant to this section shall be provided as described in subdivision (a) above. Additionally, verbal notice shall be provided, upon request, as reasonably necessary to effectuate notice to the parents.


§ 11311. Parent Requests forto Establish a Language Acquisition Programs.

(a) An LEA shall establish a process for schools of the LEA to receive and respond to requests from parents of pupils enrolled in the school to establish a language acquisition program other than, or in addition to, such programs provided available at the school. The LEA process shall require each school to make a written record of each request, including at least the following:

(1) The date of the request;

(2) The names of the parent and pupil;

(3) A general description of the request; and

(4) The pupil’s grade level on the date of the request.

(b) Each school shall maintain a written record of verbal requests that includes the information set forth in subdivision (a) above.

(c) Each school shall assist parents in clarifying requests, as needed.
(d) Each school shall retain written records of parent requests for language acquisition programs for at least three years from the date of the request.

(e) A parent whose pupil is enrolled in a school for attendance in the next school year may submit a request for a language acquisition program.

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

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

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

(1) Within 10 school days of reaching a threshold described in subdivision (h), notify the parents of pupils attending the school, the school’s teachers, and administrators, and the LEA’s English learner parent advisory committee and parent advisory committee, in writing, of the parents’ requests for a language acquisition program;

(2) Identify costs and resources necessary to implement a language acquisition program, including but not limited to certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals; and

(3) Determine, within 90 calendar days of reaching the threshold described in subdivision (g), whether it is possible to implement the requested language acquisition program; and provide notice, in writing, to parents of pupils attending the school, the school’s teachers, and administrators, of its determination;
(A) In the case of an affirmative decision to implement a language acquisition program at the school, create and publish a reasonable timeline of actions necessary to implement the language acquisition program.

(B) In the case where the LEA determines it is not possible to implement a language acquisition program requested by parents, the LEA shall provide in written form an explanation of the reason(s) the program cannot be provided, and may offer an alternate option that can be implemented at the school.

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


§ 11312. Language Programs

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

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

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

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

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 343 and 48985, Education Code; 20 U.S.C Section 1703(f) and 6318.

10-26-17 [California Department of Education]
FINAL STATEMENT OF REASONS
CALIFORNIA EDUCATION FOR A GLOBAL ECONOMY (CA Ed.G.E.) INITIATIVE
PROPOSED REGULATIONS

UPDATE OF INITIAL STATEMENT OF REASONS

The original proposed text was made available for public comment for at least 45 days from July 28, 2017, through September 11, 2017. Twenty comments were received during the 45-day comment period.

A public hearing was held at 1:30 p.m. on September 11, 2017, at the California Department of Education (CDE). One individual provided comments at the public hearing.


The CDE received 20 written comments, including one from the public hearing commenter. Twelve of the written comments were received as a form letter. The comments and responses are set forth in the attached chart (Attachment 4).

PUBLIC HEARING COMMENTS

- Attachment 4a: Martha Zaragoza-Diaz, Legislative Advocate, Zaragoza-Diaz & Associates. This commenter also provided her verbal comments in written form.

NON-FORM LETTER COMMENTS

- Attachment 4b: Deborah Escobedo, Senior Attorney, Racial Justice-Education, Lawyer’s Committee for Civil Rights of the San Francisco Bay Area; Cynthia Rice, Director of Litigation Advocacy and Training, California Rural Legal Assistance, Inc.; Dolores Huerta, President, Dolores Huerta Foundation; Marisa Diaz, Staff Attorney, Christopher Ho, Senior Staff Attorney, Stacy Villalobos, Skadden Fellow, Legal Aid at Work; Joann Lee, Directing Attorney, Legal Aid Foundation of Los Angeles; Jill E. Sowards, Staff Attorney, Legal Services of Northern California; Jordan Thierry, Senior Program Associate, PolicyLink.

Note: The CDE sent a letter on September 1, 2017, in response to this public comment. This response is included in Attachment 4b.

- Attachment 4c: Cynthia Rice, Director of Litigation Advocacy and Training, California Rural Legal Assistance, Inc.; Deborah Escobedo, Senior Attorney, Racial Justice-Education, Lawyer’s Committee for Civil Rights of the San Francisco Bay Area; Shelly Spiegel-Coleman, Executive Director, Californians Together; Jan Gustafson-Corea, Chief Executive Officer, California Association for Bilingual Education; Joann Lee, Directing Attorney, Legal Aid Foundation of
Los Angeles; Abigail Trillin, Executive Director, Legal Services for Children; Barbara Flores, President, California Latino School Boards Association

- **Attachment 4d**: Jorge Cuevas Antillón, College of Education, San Diego State University

- **Attachment 4e**: Jessica Murray, English Learner Instructional Resource Teacher (Secondary), Santa Cruz City Schools

- **Attachment 4f**: David Dolson, Former Administrator, California Department of Education

- **Attachment 4g**: Mary Perry, Vice-President for Education, California State Parent-Teachers Association (Added comments to form letter referenced below)

**FORM LETTER (Attachment 4h) – 12 COMMENTS**

- Anya Hurwitz
- Arturo Ybarra, Executive Director, Watts/Century Latino Organization
- Vanessa Calderon-Garcia, State Seal of Biliteracy District Coordinator and Learning Design Coach, Oxnard Union High School District
- Hugo Morales, Radio Bilingüe, Inc.
- Cheryl Ortega, Director of Bilingual Education, United Teachers Los Angeles
- Daniel Ward, Editor, Language Magazine
- Claudia Lockwood
- Veronika Lopez-Mendez, Principal, Rosa Parks Elementary
- Xilonin Cruz-Gonzalez, Azusa USD Board of Education Vice-President
- Vicki Ramos Harris
- Carla Herrera, Retired Bilingual Educator, Two-Way Immersion Specialist and Consultant
- Martha Hernandez

**Changes to the text:**

General changes were made to the regulations to include grammatical edits, and renumbering and/or re-lettering to reflect deletions or additions.

**After the 45-day comment period, the following changes were made to the proposed text of the regulations and sent out for a 15-day comment period:**

**Current title of Chapter 11, Subchapter 4** is amended from “English Language Learner Education” to “Multilingual and English Learner Education.” “Multilingual” is added to include the types of programs available under California Education Code (EC) sections 305, 306, and 310 (other than Structured English Immersion [SEI]). The word
“Language” is deleted from “English Language Learners” to align the title with the term “English learner” used in the statute.

**Proposed Section 11300(a)** is amended to reword the section, including replacing “protected time” with “time set aside during the regular school day.” This change is necessary to specify when and how Designated English Language Development instruction is carried out.

**Proposed Section 11300(d)** is amended to add language to the definition of “language acquisition programs.” The new language specifically names the language acquisition programs described in the statute. This addition is necessary to align the definition to the definition of language acquisition programs in EC Section 306(c).

**Proposed Section 11300(h)** is added to provide a definition of “multilingual.” This definition is necessary to clarify the use of the term in these regulations.

**Former Proposed Section 11300(m)** is deleted. Structured English Immersion is defined in EC Section 306(c)(3), therefore is not necessary in regulations.

**Proposed Sections 11301(a) and (c)** are amended to add “if applicable” after “English Learner parent advisory committee.” This change is necessary to align the language in this section with EC Section 52062.

**Proposed Section 11309(c)(3)(A)** is amended to replace “if applicable, another” with “when the program model includes instruction in another language, proficiency in that other.” This change is necessary to clarify that proficiency in another language applies when a student participates in a language acquisition program designed for that purpose.

**Proposed Section 11309(c)(3)(B)** is amended to replace “if applicable” with “when the program model includes instruction in another language, achievement in that other.” This change is necessary to clarify that academic achievement in another language applies when a student participates in a language acquisition program designed for that purpose.

**Proposed Section 11309(d)** is amended to add language regarding the inclusion of Designated and Integrated English Language Development (ELD) in an SEI program. This addition emphasizes that SEI is a fully articulated language acquisition program, with the same services required for English learners as any other language acquisition program.

**Proposed Section 11309(e)** is amended to delete “in addition to SEI.” The deleted language is not necessary for the purposes of the section, which is to specify that a language acquisition program may serve both English learners and native speakers of English.
Proposed Section 11310(a) is amended to delete “any,” and replace “provided by” with “available in.” The change does not modify the meaning of the section.

Proposed Section 11310(b)(2) is amended to add “when the program model includes instruction in another language.” This addition is necessary to specify that the description must identify the additional language of instruction when the program design includes an additional language of instruction.

Proposed Section 11310(b)(4) is added to require that the notice include a description of the process for parents to request to establish a new language acquisition program at a school. This is necessary to ensure parents know how to request a new language acquisition program pursuant to EC Section 310.

Proposed Section 11311 amends the title of this section to replace “for” with “to establish a.” This modification is necessary to designate that the purpose of this section is to address parent requests to establish a new language acquisition program, rather than choosing a program that already exists.

Proposed Section 11311(a) is amended to add “a” and replace “provided” with “available.” These changes bring this section into alignment with the title of this section and language changes in section 11310 of these regulations.

Proposed Section 11311(f), formerly (i), is amended to replace “may” with “shall,” and adds “for a multilingual program model.” The changes are necessary to clarify to local educational agencies (LEA) that all parent requests count toward reaching the stated thresholds in cases where the requested program model goal is multilingualism.

Proposed Section 11311(h), formerly (g), is amended to remove the word “immediately.” This time requirement for a LEA to notify parents that a threshold has been met has been moved to section 11312(h)(1).

Proposed Section 11311(h)(1), formerly (g)(1), is amended to require that LEAs notify parents, teachers, and administrators “within 10 school days” of a threshold being reached. This change is necessary to provide a specified time within which LEAs must provide the required notification.

Proposed Section 11311(h)(2), formerly (g)(2), is amended to include “costs and” and “any new” to the language in this section. These additions provide further specificity on what an LEA is expected to include in their assessment for possible implementation of a language acquisition program or language program.

Proposed Section 11311(h)(3), formerly (g)(3), is amended to replace “90” with “60” calendar days, reducing the number of days for an LEA to determine whether it is possible to implement the requested language acquisition program. This regulation is necessary to ensure LEAs respond to parent requests in a timely manner.
Proposed Section 11311(h)(3)(B), formerly (g)(3)(B), is amended to require that the explanation of why it is not possible to implement a language acquisition program requested by parents is provided by the LEA in written form. This addition is necessary to maintain transparency regarding the process of responding to parent requests for a language acquisition program.

Proposed Section 11316 is amended to delete an incorrect citation.

ALTERNATIVES DETERMINATION

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

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local educational agencies.

10-26-2017 [California Department of Education]
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<tr>
<td>11300</td>
<td>Deborah Escobedo, et al. See Attachment 4b</td>
<td><strong>Procedural Objections</strong> See letter (Attachment 4b)</td>
<td><strong>REJECT</strong> This comment does not address the content of the regulations but focuses on the process. The California Department of Education (CDE) is not required to provide translated documents under the Administrative Procedures Act. The CDE provided a Spanish translation of the proposed regulations as a courtesy to the public. (Letter of response from the California Department of Education included in Attachment 4b)</td>
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<td>11300</td>
<td>Jessica Murray See Attachment 4e</td>
<td>The proposed addition and language in Parts a), b), d), and e) of the definitions, which define Designated ELD, Integrated ELD, and Language Acquisition Programs versus Language Programs are clear and well-stated. They are excellent additions to our state laws and regulations.</td>
<td><strong>NO ACTION REQUIRED</strong> This comment is a statement and does not provide suggestions for changes.</td>
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<td>11300</td>
<td>Jorge Cuevas Antillón See Attachment 4d</td>
<td>Commenter provided a copy of the regulations in “track changes” with the suggested acronyms listed below. <strong>Recommendations:</strong> (a) “Designated English Language Development (D-ELD)” means instruction provided during a protected time during the regular school day, in which there is a focus on state-adopted English language development (ELD) standards to assist English</td>
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<td><strong>REJECT</strong> The comments do not address the content of the regulations. The use of acronyms does not provide additional clarity.</td>
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<td>learners to develop critical English language skills necessary for academic content learning in English. (b) “English learner parent advisory committee,” means the committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063 and 52069, and Title 5 California Code of Regulations section 15495(b). (c) “Integrated English Language Development (I-ELD)” means instruction in which the state-adopted ELD standards are used in tandem with the state-adopted academic content standards. Integrated ELD includes specially designed academic instruction in English. (d) “Language Acquisition Programs (LAPs)” are educational programs designed for English learners to ensure English acquisition as rapidly and effectively as possible, that provide instruction to these pupils on the state-adopted academic content and ELD standards through Integrated and Designated ELD, and that meet the requirements described in section 11309 of this subchapter. (h) “Parent advisory committee (PAC)” means a committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063 or 50269. (l) “State-adopted English language development (ELD) standards” means standards adopted pursuant to Education Code section 60811. (m) “Structured English Immersion (SEI)” means a Language Acquisition Program, where nearly all</td>
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<td><strong>11300</strong></td>
<td>Cynthia Rice, et al.</td>
<td>Instruction is provided in English, with a curriculum and presentation designed for pupils who are learning English.</td>
<td><strong>REJECT</strong> The definition of English learner cited in California Education Code (EC) Section 306(a) refers to the definition of English learner found in the statute under No Child Left Behind. This definition is no longer current under federal law, which will be addressed through the legislative process.</td>
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<td><strong>11300</strong></td>
<td>Section 11300 should include a definition of English learner. It is clear that the underlying intent was to adopt the definition of English learner found under federal law. Recommendation: Add this definition: An English learner is an individual: (A) who is aged 3 through 21; (B) who is enrolled or preparing to enroll in an elementary school or secondary school; (C)(i) who was not born in the United States or whose native language is a language other than English; (ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and (II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is provided.</td>
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<td>English is dominant; and (D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual— (i) the ability to meet the challenging state academic standards; (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or (iii) the opportunity to participate fully in society. According to the CA current State Plan the above definition is found under the federal “Every Student Succeeds Act”.</td>
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<td>11300(a)</td>
<td>Mary Perry See Attachment 4g</td>
<td>On Page 1, line 16 there is a reference to “protected time” during the regular school day in which there is a focus on state adopted English language development (ELD) standards to assist English learners. However, “protected time” is not defined. <strong>Recommendation:</strong> PTA recommends that the CDE and State Board define “protected time” in further detail within the regulations that allows for public comment. Otherwise, teachers and parents will not know what to expect nor anticipate for each English learner in terms of their rights and access to ELD.</td>
<td><strong>ACCEPT</strong> The definition for Designated English Language Development is modified to replace “protected time” with descriptive language that addresses the commenter’s concerns.</td>
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| 11300(b)         | Cynthia Rice, et al. See Attachment 4c | Commenters suggest that “The definition of "English Learner Parent Advisory Committee must be expanded so that it is consistent with current law.”  
Recommendation:  
(b) "English learner parent advisory committee", means the committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063 and 52069, 52176(b), and (c), 62002.5 and 64001(a) and Title 5 California Code of Regulations sections 11308 and 15495(b). | REJECT  
The proposed regulations are consistent with the requirements of EC sections 305, 306, 310, 52063, and 52069.  
Proposed section 11301(b) suggests methods for engaging stakeholders [defined in proposed section 11300(k)], school advisory committees, or other groups representing stakeholders. |
| 11300(d)         | Cynthia Rice, et al. See Attachment 4c | The proposed definition of "language acquisition program" is inconsistent with Education Code section 306.  
Recommendation:  
"Language acquisition programs" are educational programs designed for English learners to ensure English acquisition as rapidly and effectively as possible for English learners, that provide instruction to these pupils on the state-adopted academic content and ELD standards through Integrated and Designated ELD, and shall lead to | ACCEPT (in part)  
The suggested language naming the language acquisition programs described in EC Section 306(c) is added to the definition of "language acquisition programs."  
REJECT (in part)  
The provisions of EC sections 305, 306, and 310 are required for "language acquisition programs" and encouraged for "language programs." |
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<td>11300(d)</td>
<td>Cynthia Rice, et al. See Attachment 4c</td>
<td><strong>grade level proficiency and academic achievement in both English and another language.</strong> Such programs include, but are not limited to: dual-language immersion, transitional or developmental programs for English learners, and Structured English Immersion. Such programs that shall meet the requirements described in section 11309 of this subchapter.</td>
<td><strong>ACCEPT (in part)</strong> The definition of Structured English Immersion is deleted from the former proposed section 11300(m) because it is already provided in EC Section 306(c).</td>
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<td><strong>former 11300(m)</strong></td>
<td>Martha Zaragoza-Diaz See Attachment 4a</td>
<td>The proposed definition of &quot;language acquisition program&quot; is inconsistent with Education Code section 306. This section narrows the definition of “language acquisition programs” by suggesting that such programs focus solely through English Language Development. It makes no mention of academic instruction in languages other than English or the CA Ed.G.E. goal of “grade level proficiency and academic achievement in both English and another language.” It appears that by providing a definition for SEI and ignoring the others, the purpose was to elevate SEI programs to a status that was not intended by, and is in fact at odds with, CA Ed.G.E. Definitions should include Dual Language Immersion, Transitional and Developmental Language Acquisition Programs. The definitions must define all language acquisition programs not just Structured English Immersion. <strong>REJECT (in part)</strong> The suggested definitions are provided in EC Section 306(c), therefore, not necessary in regulations.</td>
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<td>Form Letter See Attachment 4h</td>
<td><strong>Recommendation:</strong> Add the two following definitions: <strong>Dual-language immersion programs provide integrated language learning and academic</strong></td>
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<td>instruction for native speakers of English and native speakers of another language, with the goals of high academic achievement, first and second language proficiency, and cross-cultural understanding.</td>
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<td>Transitional or developmental programs for English learners that provide instruction to pupils that utilizes English and a pupil's native language for literacy and academic instruction and enables an English learner to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, in order to meet state-adopted academic content standards.</td>
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<td>Cynthia Rice, et al. See Attachment 4c</td>
<td>Definitions: The proposed definition of &quot;language acquisition program&quot; is inconsistent with Education Code section 306. (Language programs) According to the ISR, this separate definition is needed to &quot;distinguish between &quot;language acquisition programs&quot; and &quot;language programs&quot;. (see letter p. 8/15) The definition is confusing and creates a new category of “language program” not referenced in the CA Ed.G.E. and is inconsistent with Education Code section 306(c). CA Ed. G. E. only specifies language acquisition programs and that definition includes “The language acquisition programs provided to pupils shall be</td>
<td>REJECT The proposed definitions of “language acquisition programs” and “language programs” are consistent with EC sections 300, 305, 306, and 310. The provisions of the statute are required for “language acquisition programs” and encouraged for “language programs.”</td>
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<td>Attachment 4h</td>
<td>Jorge Cuevas Antillón</td>
<td>Commenter provided a copy of the regulations in “track changes” with the recommendations below. Commenter also requests that “Dual Language Immersion, Transitional and Developmental Language Acquisition Programs be defined.”</td>
<td>ACCEPT (in part)&lt;br&gt;The term “multilingual” is incorporated into the current title of Chapter 11, Subchapter 4. The proposed subchapter is now titled “Multilingual and English Learner Education.” Proposed section 11300((h) defines the term “multilingual,” and proposed section 11311(f) incorporates the same term to describe some program models as “multilingual.”</td>
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| 11300(i)          | Jorge Cuevas Antillón | Recommendation:  
(i) "Parents" means the natural or adoptive parents, legal guardians, or other caretakers, persons holding the right to make educational decisions for the pupil pursuant to Welfare and Institutions Code section 361 or 727, or Education Code section 56028 or 56055, including foster parents who hold rights to make educational decisions. | REJECT  
The current language sufficiently addresses any person who holds legal rights to make educational decisions for a child. |
| 11300(k)          | Mary Perry | Recommendation:  
PTA recommends inserting “and families” after parents. We would make the same recommendation throughout the regulations wherever “parents” are referenced.                                                                 | REJECT  
The current language sufficiently addresses any person who holds legal rights to make educational decisions for a child. The use of “parents” in the remaining regulations is consistent with the statute. |
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<tr>
<td>11301</td>
<td>Form Letter See Attachment 4h</td>
<td>The definition of Parent Engagement must include and go beyond the advice of the English Learner Advisory Committee. The LCAP process for parent engagement is an outreach to all parents not just advisory committees. In addition, the language acquisition programs are for English Learners and parents of native English speakers. Only consulting the LCAP English Learner Advisory Committee does not include engagement of all parents and is a very limited definition for engagement in the process of establishing language acquisition programs.</td>
<td>REJECT The proposed regulations are consistent with the requirements of <em>EC</em> sections 305, 306, 310, 52063, and 52069. Proposed section 11301(b) suggests methods for engaging stakeholders [defined in proposed section 11300(k)], school advisory committees, or other groups representing stakeholders.</td>
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<td>11301</td>
<td>Mary Perry See Attachment 4g</td>
<td><strong>Recommendation:</strong> On Page 3 beginning on line 18 amend to read: (a) As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English learner parent advisory committee and the parent advisory committee, and other parent and family organizations on school sites including but not limited to the Parent Teacher Association, school site councils, and other groups, regarding the LEA’s existing language acquisition programs and language programs, and establishing other such programs.</td>
<td>REJECT The proposed regulations are consistent with the requirements of <em>EC</em> sections 305, 306, 310, 52063, and 52069. Proposed section 11301(b) suggests methods for engaging stakeholders [defined in proposed section 11300(k)], school advisory committees, or other groups representing stakeholders.</td>
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<td>11301</td>
<td>Cynthia Rice, et al.</td>
<td>Section 11301 fails to adequately reflect the new requirements imposed on districts regarding the</td>
<td>REJECT The recommended language refers to language</td>
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<td>11301</td>
<td>Jorge Cuevas Antillón See Attachment 4d</td>
<td><strong>Recommendation:</strong> (a) As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English Learner Parent Advisory Committee (ELPAC) and the Parent Advisory Committee (PAC), regarding the LEA’s existing language acquisition programs (Multilingual and SEI Programs) and language programs, and establishing other such programs.</td>
<td><strong>ACCEPT</strong> (in part) The term “multilingual” is incorporated into the current title of Chapter 11, Subchapter 4. The proposed subchapter is now titled “Multilingual and English Learner Education.” Proposed section 11300(h) defines the term “multilingual,” and proposed section 11311(f) incorporates the same term to describe some program models as “multilingual.” <strong>REJECT</strong> (in part) The comments do not address the content of the regulations. The use of acronyms does not provide additional clarity. The recommended edits to the program titles are not...</td>
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<td>Martha Zaragoza-Diaz See Attachment 4a</td>
<td>development of language acquisition programs during the LCAP process. <strong>Recommendation:</strong> As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English learner parent advisory committee and the parent advisory committee, regarding the LEA’s existing language acquisition programs and language programs, and establishing other such programs including dual language immersion programs, transitional or developmental programs, and Structured English Immersion programs.</td>
<td>acquisition programs already included in the statute and in proposed section 11300(d), which defines “language acquisition programs.” To avoid duplication, the recommended language is not included.</td>
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<td>11301, 11309, and 11311</td>
<td>Cynthia Rice, et al. See Attachment 4c</td>
<td>The proposed regulations should facilitate broader stakeholder engagement in the creation of language acquisition programs. The purpose of 11309 is to “connect Ed Code sections 305 and 306 with federal obligations for the creation, implementation and evaluation of language acquisition programs for English learners. The obligations detailed in that section are supported by 20 USC section 1703.” Largely, these obligations are exactly in keeping with the goals of CA Ed.G.E., but more could be done to encourage stakeholder engagement. In light of California’s strengthened commitment to local control and stakeholder engagement in the school funding and planning processes, proposed sections 11301 and 11311 should be amended to require more robust stakeholder engagement and feedback for the development of language acquisition programs.</td>
<td>REJECT The proposed regulations are consistent with the requirements of EC sections 305, 306, 310, 52063, and 52069. Proposed section 11301(b) suggests methods for engaging stakeholders [defined in proposed section 11300(k)], school advisory committees, or other groups representing stakeholders.</td>
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<td>11309</td>
<td>Martha Zaragoza-Diaz See Attachment 4a</td>
<td>The amendment to Section 11309 addresses the need to ensure that schools offer instruction in the language other than English which is differentiated to the individual needs of second language learners (English-speakers in this instance) and native speakers of that language.</td>
<td>REJECT The recommended language is beyond the scope of the statute and unnecessarily prescriptive given the provisions of proposed section 11309(c)(3)(B).</td>
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<td>11309</td>
<td>David Dolson See Attachment 4f</td>
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| 11310(a)         | Mary Perry See Attachment 4g | **Recommendation:**  
(d) When instruction is provided in and through a language other than English, such instruction shall be based on the assessed individual needs of the native speakers of English and the native speakers of the other language.  
**Parental Notice**  
Page 6, lines 31 and 32 amend to read:  
.....The notice specified in this section shall include a description of the process for parents and families, along with the timeline and deadlines, to request a language acquisition program or language program for their child.  
**REJECT**  
The term “parents” is defined in proposed section 11300(j), and sufficiently addresses any person who holds legal rights to make educational decisions for a child, including the ability to request a desired language acquisition program.  
EC Section 310 provides parents the opportunity to choose a program that best suits their child from the available programs, or to request a new language acquisition program at a school site. This provision is open-ended, meaning that there are no timelines imposed upon parents as to when they may submit their choices or requests. |

| 11310           | Form Letter See Attachment 4h | **Parent Notification**  
There needs to be clarification that notification determining the language acquisition programs are for all parents to enroll their children.  
**Recommendation:**  
All notifications should be available in the languages spoken at that school.  
**REJECT**  
Proposed sections 11310(a) and 11311(a) specify “parents,” which is an inclusive term.  
Current 5 CCR section 11316 requires that all notices be provided in English and the parents’ primary language, to the extent required under EC Section 48985. To avoid duplication, the recommended language is not included in proposed section 11310. |
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| 11311            | Jorge Cuevas Antillón See Attachment 4d | Recommendation:  
(a) An LEA shall define and name language acquisition programs available per site via information easily accessible to the public. Additionally, the LEA shall establish a process for schools of the LEA to receive and respond to requests from parents of pupils enrolled in the school to establish language acquisition programs other than, or in addition to, such programs already provided at the school.  
(c) Each school shall assist parents in clarifying requests, such as program type, as needed.  
(e) A parent whose pupil is enrolled in a school for attendance in the next school year may submit a request for a particular language acquisition program.  
(f) Each school shall monitor the number of parent requests for any language acquisition programs on a regular basis, and notify the LEA immediately upon reaching a threshold specified in subdivision (g).  
(g) When the parents of 30 pupils or more enrolled in a school, or when the parents of 20 pupils or more in the same grade level enrolled in a school, request the same or substantially similar type of a language acquisition program, the LEA shall respond by immediately taking the following actions:  
(1) Notify the parents of pupils attending the school, the school’s teachers, and administrators, in writing, of the parents’ requests for a language | ACCEPT (in part)  
The recommended language for proposed section 11311(h)(1), formerly (g)(1), is incorporated with modifications.  
The recommended language for proposed section 11311(h)(2), formerly (g)(2), is incorporated with no changes.  
REJECT (in part)  
The current language in proposed sections 11310 and 11311 is adequate to accomplish the purpose of the recommended language in proposed sections 11311(a), (c), (e), and (f), formerly (i). |
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| 11311            | Cynthia Rice, et al.  
See Attachment 4c  
Martha Zaragoza-Diaz  
See Attachment 4a | **acquisition program, including formal notification to the LEA ELPAC and PAC:**  
(2) **Identify costs and resources necessary to implement any new language acquisition program, including but not limited to certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals; and**        | **ACCEPT (in part)**  
Proposed section 11311(h)(3)(B) is modified to require that an local educational agency (LEA) provide a written explanation of the reasons why a language acquisition program will not be implemented. This requirement provides documentation for parents to approach the local governing board with possible concerns regarding such a determination, if so desired.  
**REJECT**  
EC sections 305, 306, and 310 do not provide for a formal appeal process regarding the implementation of a requested language acquisition program. |
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<td>See Attachment 4c</td>
<td>Martha Zaragoza-Diaz</td>
<td>language acquisition program should be strengthened to improve notice and avoid delay. The regulation should make clear the fact that a district must implement requested programs, to the extent possible. Given the language of the Initiative, the burden is on the school district to justify why parental requests for a particular language acquisition program will not be honored when the numerical triggers have been met. Clarification of the circumstances under which a district may deny a request is critical to the uniform implementation of the requirements. Recommendation: Add to section 11311 as new subsection: <em>(a) An LEA shall establish and allow enrollment in any language acquisition program requested by parents in accordance with Education Code section 310, to the extent possible.</em> Add language explaining how &quot;resources necessary&quot; will be used in determining that it is possible or not possible to implement programs requested by parents.</td>
<td>require that an LEA provide a written explanation of the reasons why a language acquisition program will not be implemented. This requirement provides documentation for parents to approach the local governing board with possible concerns regarding such a determination, if so desired. REJECT (in part) Proposed section 11311 provides LEAs with the process to determine, through an analysis of costs and resources, the extent to which it is possible to establish the requested language acquisition program.</td>
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<td>11311(h)</td>
<td>Form Letter</td>
<td>Procedures, Timeliness and Appeal Process. The timeline of 90 calendar days for a school to</td>
<td>ACCEPT (in part) The timeline for an LEA to determine whether it is</td>
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<td>determine whether or not it is practicable to offer such a program is too long, could cause a year delay in program implementation and discourage parents to continue with their request. <strong>Recommendation:</strong> This period should not exceed 20-30 days. In the event the school decides it is not able to offer the program, there needs to be an appeal process delineated in the regulations.</td>
<td>possible to offer a requested language acquisition program at a school has been reduced to 60 calendar days. This timeline applies only to parent requests to establish a program not already offered at a school. Proposed section 11311(h)(3)(B) is modified to require that an LEA provide a written explanation of the reasons why a language acquisition program will not be implemented. This requirement provides documentation for parents to approach the local governing board with possible concerns regarding such a determination, if so desired. <strong>REJECT</strong> (in part) The decision to implement a new language acquisition program is based, in part, determining whether it is possible to implement the requested program by conducting an analysis of costs involved and available resources to support the implementation of a requested language acquisition program. The time period also includes the creation of a timeline for implementation. Sufficient time must be allocated for LEAs to complete their &quot;due diligence&quot; before arriving at a decision to implement a requested language acquisition program. EC sections 305, 306, and 310 do not provide for a formal appeal process regarding the implementation of a requested language acquisition program.</td>
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<td>11311(h)</td>
<td>David Dolson See Attachment 4f</td>
<td>The amendment to Section 11311 addresses the reality that implementation of a requested language acquisition program can be denied or significantly delayed by a school for a broad number of reasons and parents have no statutorily defined recourse. When such programs are denied or significantly delayed by a school, parents should be provided, whenever possible, with the option to enroll pupils in a requested program at another school. <strong>Recommendation:</strong> (B) In the case where the LEA determines it is not possible to implement a language acquisition program requested by parents, the LEA shall provide an explanation of the reason(s) the program cannot be provided, and shall take reasonable steps to offer a suitable alternate option that can be implemented at the school as well as enrollment of pupils in the requested language acquisition option at another school in the LEA.</td>
<td>ACCEPT (in part) Proposed section 11311(h)(3)(B) is modified to require that an LEA provide a written explanation of the reasons why a language acquisition program will not be implemented. This requirement provides documentation for parents to approach the local governing board with possible concerns regarding such a determination, if so desired.</td>
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<td>11311(h)</td>
<td>Cynthia Rice, et al. See Attachment 4c Martha Zaragoza-</td>
<td>The regulations should clarify and strengthen the type and form of notice required when a school district denies a parental request for a language acquisition program. <strong>Recommendation:</strong> Apply the type of language used for denial of waivers in the regulations for Prop 227, including a full written</td>
<td>ACCEPT (in part) Proposed section 11311(h)(3)(B) is modified to require that an LEA provide a written explanation of the reasons why a language acquisition program will not be implemented. This requirement provides documentation for parents to approach the local governing board with possible concerns regarding such a determination, if so desired.</td>
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<td>11311(h)</td>
<td>Diaz</td>
<td>explanation for denial so parents can challenge a denial if they do not agree.</td>
<td>REJECT (in part) Application of the type of language in the regulations for Proposition 227 is not consistent with EC sections 305 and 310.</td>
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<td>Cynthia Rice, et al.</td>
<td>A response time of 90 days to act on parental requests encourages needless delay.</td>
<td>Notification of Available Programs REJECT EC Section 310(b)(2) requires notice to all parents on the types of programs available in the district. The process for this notice is outlined in proposed section 11310.</td>
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<td>Martha Zaragoza-Diaz</td>
<td>Recommendation: The regulations should be revised to include a requirement that the district notifying the requesting parent within 5 school days about whether the requested program is currently available, or whether the trigger for such program has or has not been reached. Districts should have to similarly advise requesting parents within five school days after the threshold is met if that occurs at a later time. Finally, the time within which the district must determine whether it is possible to implement the requested language acquisition program and provide notice, in writing, to parents of pupils attending the school, the school's teachers, and administrators, of its determination should be reduced to 30 days.</td>
<td>Notification That Threshold Has Been Reached ACCEPT The timeline requiring notification when the parent request threshold has been met at a school is modified to 10 school days in proposed section 11311(h)(1). The term “immediately” is deleted from 11311(h). This change creates a finite timeline in which LEAs are responsible to provide the required notification. Time to Make a Determination of Implementation ACCEPT (in part) The timeline for an LEA to determine whether or not it is possible to establish a requested language acquisition program at a school has been reduced to</td>
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<td>11311 (i)</td>
<td>Cynthia Rice, et al. See Attachment 4c Martha Zaragoza-Diaz See Attachment 4a</td>
<td>Proposed regulation section 11311(i) is inconsistent with Education Code section 310. (Making a distinction between parents of EL students and parents of native English speakers as regards the requests for a language acquisition program.) <strong>Recommendation:</strong> Proposed section 11311(i) should read as follows: (i) A school <strong>may shall</strong> consider requests from parents of pupils enrolled in the school who are native speakers of English when determining whether a threshold specified in subdivision (g) is reached.</td>
<td><strong>ACCEPT</strong> Proposed section 11311(f), formerly (i), is amended to replace the term “may” with “shall.”</td>
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| 11316            | Cynthia Rice, et al. See Attachment 4c Martha Zaragoza-Diaz See Attachment 4a | Section 11316 should be clarified to ensure that notice is provided in the primary language whenever practicable. 

**Recommendation:**

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

All notices and other communications to parents or guardians required or permitted by these regulations must be provided in English and in the parents' or guardians' primary language **unless provision of such notice is impracticable, to the extent required under Education Code section 48985.** | REJECT Current section 11316 is consistent with EC Section 48985. |

10-26-17 California Department of Education
Zaragoza-Diaz & Associates
Martha Zaragoza-Diaz

PUBLIC HEARING
September 1, 2017
Comments and Recommendations to Proposed Title V Regulations Regarding California for a Global Economy Initiative (Proposition 58 of 2017)

I am here today representing the California Association for Bilingual Education and the Californians Together Coalition.

We welcome the opportunity to provide input to regulations promoting the development of multilingual skills. The California for a Global Economy Initiative (CA Ed.G.E.) recognizes that multilingual learning is beneficial for all students. The intent of the Initiative is to provide an opportunity for all students to develop skills that lead to their proficiency in English and another language and to ensure that school districts meet the obligation to ensure that English learners obtain proficiency in English and reach at least grade level proficiency in academic achievement.

Outlined below are our comments and recommendations which we believe will bring additional clarity and direction to the proposed regulations. We hope they will be seriously considered in modifying the proposed Title V regulations specific to the California for a Global Economy Initiative.

Comments and Recommendations

1. Section 11300 Definitions. The proposed regulations fail to include definitions for two specific programs included in law [Education Code sections 306, 306 (1) & (2)]; dual-language immersion, transitional or development programs for English learner students or any program that would ensure “academic achievement in both English and another language”. Excluding these definitions suggests that districts may rely on Sheltered English Immersion (SEI) programs alone, or make it a preferred program and still fulfill their obligations under the law. This is not the case and is exactly why CA Ed.G.E. was introduced and was designed to change. Recommendations:

a) Proposed Section 11300 (d) should be amended to read as follows: “Language Acquisition programs” are educational programs designed to ensure English language acquisition as rapidly and effectively as possible for English learners, that provide instruction to pupils on the state-adopted academic content and ELD standards through Integrated and Designated ELD, and shall lead to grade level proficiency and academic achievement in both English and another language.

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Such programs include, but are not limited to: dual-language immersion, transitional or developmental programs for English learners, and Structured English Immersion. Such programs shall meet the requirements described in section 11309 of this subchapter."

b) Proposed regulation 11300 should be amended to include the definitions for both dual-language immersion programs and transitional/developmental programs for EL students:

“(n) Dual-language immersion programs means a language acquisition program that provides integrated language learning and academic instruction for native speakers of English and native speakers of another language, with goals of high academic achievement, first and second language proficiency, and cross-cultural understanding.

(o) Transitional or developmental programs for English learners means language acquisition programs that provide instruction to pupils that utilizes English and a pupil’s native language for literacy and academic instruction and enables an English learner to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, in order to meet state-adopted academic content standards.”

2) Section 11300 (d) Definitions. The definition of “Language Acquisition Programs” is confusing and creates a new category of “Language Program” not referenced in the CA.Ed.G.E and is inconsistent with Education Code section 306. Contrary to Education Code section 306© the proposed regulations narrow the definition of language acquisition programs focus solely on English acquisition and content instruction solely through English language development (ELD). It makes no mention of academic instruction in languages other than English or the CA Ed.G.E. goal of “grade level proficiency and academic achievement in both English and another language”. As stated in (1) above, the proposed definition even fails to mention and fails to define, dual-language immersion programs or transitional/developmental programs for EL or any program that would ensure “academic achievement in both English and another language.”

Recommendation: The proposed regulation 11300 (d) should be amended to read as follows: ‘Language acquisition programs are educational designed to ensure English acquisition as rapidly and effectively as possible for English learners, that provide instruction to pupils on the state adopted academic content and ELD standards through Integrated and Designate ELD, and shall lead to grade level proficiency and academic achievement in both English and another language. Such programs include, but are not limited to: dual-

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3. **Section 11301 Community Engagement.** This proposed regulation fails to adequately reflect the new requirements imposed on school districts regarding the development of their Local Control Accountability Programs (LCAPs) during the LCAP process. It fails to also include a reference to the programs identified in Section 306; dual-language immersion and transitional or developmental programs. The language clearly fails to capture the intent of the initiative, to encourage the development of bilingual/multilingual programs where very few schools have them.

**Recommendation:** The proposed section should be amended to read: “(a) As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English learner parent advisory committee and the parent advisory committee, regarding the LEAs existing language acquisition programs and language programs, and establishing other programs including dual-language immersion programs, transitional or developmental programs, and Structured English Immersion programs.”

4. **Section 11311. Parent Requests for Language Acquisition Programs**

This regulation should make it very clear the fact that a school district must implement requested programs, to the extent possible. We believe, based upon the language in the initiative, burden is on the school district to justify why parental requests for a particular language acquisition program will not be honored when the numerical triggers have been met. This proposed section fails to adequately reflect this burden and should, provide minimum guidelines to determine what is meant by the phrase “to the extent possible.” This proposed section must be revised to make clear that the presumption is that the school will provide the requested program. Additionally, the proposed section states that resources necessary to implement a language acquisition program must be identified. However, it does not explain how these resources would factor into the determination that it is possible or not possible to implement the requested program immediately or in the future.

**Recommendations:** a) Add a new subsection to read as follows: “(a) A LEA shall establish and allow enrollment in any language acquisition program requested by parents in accordance with Education Code 310, to the extent possible.” b) Add language explaining how “resources necessary” will be used in determining that it is possible or not possible to implement programs requested by parents.
5. **Section 11311 (g)(3) (B) Parent Requests for Language Acquisition Programs**

The proposed subsection (g) (3)(B) does not specify the form nor the content of the denials. The proposed subsection also does not require that the explanation of a denial be reasonable or delineate specific reasons for a denial. Lastly the proposed regulation gives school districts 90 days to respond. As was required by Proposition 227, parents or guardians were provided with a full written description and, upon request from a parent or guardian, a spoken description of the structured English immersion program and any alternative courses of study and all education opportunities offered by the school district and available to the pupils. Additionally, schools were given 20 days to act on parent exception Waivers, or within 10 calendar days after the expiration of the 30-day placement in an English only classroom or 20 instructional days upon submission to the principal.

**Recommendations:** a) Amend this proposed subsection so that similar standards and timelines are applied necessary to create the type of parental engagement envisioned by CA Ed.G.E. b) A requirement that the district notify the requesting parent within 5 school days about whether the requested program is currently available, or whether the trigger for such a program has or has not been reached and provide notice in writing, to parents of pupils attending the school, the school’s teachers, and administrators, of its determination, should be reduced to 30 days and not 90 days.

6. **Section 11311 (i) Parent Requests for Language Acquisition Programs**

The proposed subsection (i) is inconsistent with Education Code Section 310. The proposed subsection makes a distinction between parents of EL students and parents of native speakers of English with respect to determining the numerical triggers. Education Code section 310 does not make this distinction. On the contrary, the statute envisioned that the parents of native English speakers should be given the opportunity to request a bilingual/multilingual program along with parents of EL students. Allowing a school district to not consider requests from the parents of English learners when determining numerical triggers would be inconsistent with the statute, negate the role of parents of EL students in the process of seeking programs for their children and would mean that bilingual/multilingual programs would rarely be implemented.

**Recommendation:** Amend proposed subsection 11311 (I) to read: “(i) A school shall consider requests from parents of pupils enrolled in the school who are native speakers of English when determining whether a threshold specified in subdivision (g) is reached.”

Other recommendations that should be considered are:

- Establishing an appeal process for parents in the event districts do not abide by the requirements of CA Ed.G.E.

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- Proposed Section 11316 should be clarified to ensure that the Notice is provided in the primary language of a parent of an EL student unless it is an unreasonable burden to do so.
- In light of California’s strengthened commitment to local control and stakeholder engagement in the school funding and planning processes, proposed sections 11301 and 11311 should be amended to require more robust stakeholder engagement and feedback for the development of acquisition language programs.

The California Association for Bilingual Education and the Californians Together Coalition also signed onto the letter submitted by the California Rural Legal Assistance Inc and the Racial Justice-Education Lawyers’ Committee for Civil Rights of the San Francisco Bay Area to CDE’s Regulations Coordinator.

We can’t emphasize enough the importance of the implementation of the CA Ed G.E. initiative via the regulations. There is much interest and excitement about the opportunities for expanded program options leading to multilingualism for all of our students. The Title V regulations need to capture the intent and language of Proposition 58 necessary to provide clear guidance and direction to school districts and schools and an understanding by parents of Proposition 58. We believe our comments and recommendations along with those provided by the California Rural Legal Assistance Inc and the Racial Justice-Education Lawyers Committee for Civil Rights of the San Francisco Bay Area provide that clarity and direction.

Please contact me at 916-395-2616 should you have questions regarding our comments or recommendations.

Thank you.

Martha Zaragoza-Diaz
Legislative Advocate

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Aug. 17, 2017

Dr. Michael W. Kirst, President
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Sacramento, CA 95814-5901
sbe@cde.ca.gov

Re: The State Board of Education Must Make the “Notice of Proposed Rulemaking—Amendment to California Code of Regulations, Title 5, Regarding California Education for a Global Economy Initiative” Accessible to the Parents of English Learner Students.

Dear President Kirst and State Board of Education Members:

We write to you as a coalition of community-based groups, educational organizations, public interest law firms and civil rights organizations concerned about the failure of the State Board of Education (SBE) to provide the Limited English Proficient (LEP) parents of California’s English Learner (EL) students meaningful access to the regulatory process regarding an issue of utmost importance to the education of their children.

As you are aware, in November 2016, the citizens of California voted overwhelmingly to repeal Proposition 227 and to replace it with Proposition 58, also known as the California Education for a Global Economy (CA Ed.G.E.) Initiative. Proposition 227 required that “all children in California public schools shall be taught English by being taught in English.” In sharp contrast the CA Ed.G.E. Initiative recognizes that multilingual learning is beneficial for all students as well as a coveted ability in the broader California economy. To that end, it allows EL students to develop skills that lead to their proficiency in English and another language. The Initiative also recognizes the role of LEP parents to determine the program best suited to address the language needs of their children, “All parents will have a choice and voice to demand the best education for their children, including access to language programs that will improve their children’s preparation for college and careers, and allow them to be more competitive in a global economy.” (Educ. Code § 300 (k)).

Proposition 58 won by the largest margin of any other initiative on the ballot, with 73.5% of California voters voting in favor of the Initiative and 26.5 voting against it.
The SBE’s “Notice of Proposed Rulemaking” concerning the CA Ed.G.E. Initiative was posted on the California Department of Education’s (CDE) website on July 28, 2017. The 45-day Public Comment period began on July 29, 2017, and ends on September 11, 2017. The proposed regulations amend some existing regulations and include several new provisions to Title 5 of the California Code of Regulations (CCR) related to the education of EL students, including Sections 11300, 11301, 11309, 11310, 11311, 11312 and 11316. Proposed amendments to §11300 include several new definitions, including how “Parents” and “Parent advisory committee” are defined. Section 11309 is amended to address language acquisition programs identified under the Initiative. Several of the proposed provisions directly address the role of parents and other stakeholders in choosing the language acquisition programs to be made available within a school district. Proposed regulation § 11301 -- “Community Engagement” -- refers to the process for receiving input from parents through the development of a school district’s Local Control and Accountability Plan (LCAP). Proposed regulation § 11310 -- “Parental Notice” -- details how parents are to be notified of the language acquisition programs to be provided by a school district. Proposed regulation § 11311 -- “Parental Requests for Language Acquisition Programs” -- addresses how school districts are to establish a process to receive and respond to parental requests to establish specific language acquisition programs. All of these proposed regulations are of utmost importance to the parents of EL students in determining how they can meaningfully exercise their rights as parents to advocate for programs to meet the educational needs of their children. These parents should have a meaningful opportunity to learn about and to comment on how the State should implement an Initiative that was passed for the benefit of their children. It is deeply ironic that a fundamental purpose of CA Ed.G.E. initiative is to provide greater opportunity for EL students and their parents, yet all of the rulemaking information is publicly available solely in English.

The SBE must acknowledge that California has the largest EL student population in the United States and to conduct its business accordingly. Approximately 21.4% of all students enrolled in California schools are identified as EL. Another 21.3% of all students enrolled in California schools are Fluent English Proficient (FEP), which means that 43% of all California students come from homes where English is not the primary language. Of the approximately 1.3 million EL students enrolled in California public schools, 83.1% are Spanish speaking. The next two largest EL student language groups are: 1) Vietnamese (2.1%); and, 2) Mandarin (1.6%). Of the approximately 1.3 million FEP students enrolled in our public schools, 72.6% come from homes were Spanish is the primary language. The next two largest FEP language groups include: 1) Vietnamese (4.0%); and, 2) Mandarin (3.0%). Despite this large representation of non-

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3 See, CDE DataQuest report entitled, “English Learner Students by Language by Grade - State of California - 2016-17” available at: [http://data1.cde.ca.gov/dataquest/SpringData/StudentsByLanguage.aspx?Level=State&TheYear=2016-17&SubGroup=All&ShortYear=1617&GenderGroup=B&CDSCode=0000000000000000&RecordType=EL](http://data1.cde.ca.gov/dataquest/SpringData/StudentsByLanguage.aspx?Level=State&TheYear=2016-17&SubGroup=All&ShortYear=1617&GenderGroup=B&CDSCode=0000000000000000&RecordType=EL).

4 See, CDE DataQuest report entitled, “Fluent-English-Proficient Students by Language by Grade - State of California - 2016-17” available at: [http://data1.cde.ca.gov/dataquest/SpringData/StudentsByLanguage.aspx?Level=State&TheYear=2016-17&SubGroup=All&ShortYear=1617&GenderGroup=B&CDSCode=0000000000000000&RecordType=EL](http://data1.cde.ca.gov/dataquest/SpringData/StudentsByLanguage.aspx?Level=State&TheYear=2016-17&SubGroup=All&ShortYear=1617&GenderGroup=B&CDSCode=0000000000000000&RecordType=EL).
English speakers and concentration of Spanish speakers the SBE has published and advertised these regulatory proposals, notices of meetings, and requests for comment in English only.

Optimally, the State Board should provide information in the languages of the top ten language groups of our EL students, which include: Spanish, Vietnamese, Mandarin, Filipino, Arabic, Cantonese, Korean, Hmong, Punjabi and Russian. But it is particularly baffling that it would not be provided in Spanish, given that state-wide 1,107,214 EL students speak Spanish. An additional 961,418 students are classified as FEP Spanish speakers. In total, 2,068,632 students, or 33%, of all students enrolled in California schools come from homes where Spanish is the primary language. At a minimum, some effort should have been made to meaningfully include the parents of these children in this regulatory process, but no such effort was made. Instead, the manner in which the State Board has undertaken this rulemaking process undermines the stated Legislative intent of the CA Ed.G.E. Initiative, which is premised on the fact that California has a moral and constitutional obligation to provide educational programs for all students regardless of ethnicity or national origin that ensure that they obtain the highest quality education, master the English language, and have access to high quality, innovative, and research-based language programs. (Educ. Code § 300 subsections (h), (n)). It also violates federal and state laws that are designed to ensure equal access to services provided by the State and its agencies.

The SBE is required under federal law to ensure that limited and non-English speaking parents are provided and receive important information provided to other parents in a language they can understand. (Title VI of the Civil Rights Act of 1964, 20 U.S.C. 2000d, and its implementing regulations at 34 C.F.R. § 100.3(a)). “School districts and State Educational Agencies have an obligation to ensure meaningful communication with LEP parents in a language they can understand and to adequately notify LEP parents of information about any program, service, or activity of a school district or SEA that is called to the attention of non-LEP parents.”5 (See also, the Equal Educational Opportunities Act, 20 U.S.C. §§ 1701-1720). Under the Dymally-Allatorre Bilingual Services Act, state agencies have an obligation to ensure that any materials explaining services to the public be translated into any non-English language spoken by a substantial number of the public served by the agency.6 (Gov. Code § 7295). Gov. Code § 11135 mandates that students and parents be provided “full and equal access to the benefits of” and not be “unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency.

http://dq.cde.ca.gov/dataquest/SpringData/StudentsByLanguage.aspx?Level=State&TheYear=2016-17&SubGroup=All&ShortYear=2017&GenderGroup=B&CDSCode=00000000000000&RecordType=FEP.

5 Dear Colleague Letter - Guidance to Ensure English Learner Students Have Access to a High-Quality Education, Office for Civil Rights and Department of Justice, (Jan. 7, 2015) page 37, available at: https://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf.

Given the above, we therefore request that the SBE immediately devote resources to translate the public documents related to the CA Ed.G.E Initiative rulemaking process into the top ten languages spoken by California’s EL students and that they be posted as soon as possible on the CDE’s rulemaking website. We also request that the time to submit comments with respect to the CA Ed.G.E Initiative proposed regulations be suspended until such time as the translated versions are posted, with a new extended 45-day comment period.

Compounding the problem with respect to EL parent access to the regulatory process is the fact that the public hearing concerning these regulations will be held at 1:30 p.m. on September 11, 2017. This is a weekday when many community members will be unable to attend because of work and family obligations. This timing makes it unlikely that the people most affected by the proposed regulations will be able to meaningfully engage in the rulemaking process. This exclusion is particularly nonsensical given that the proposed regulations purport to encourage stakeholder engagement. To address the unlawful exclusion of EL parents, we ask that the Special Hearing now scheduled for September 11th be postponed and that two hearings be scheduled once the translated versions of the rulemaking materials are posted. One hearing should be held in Northern California and the other should be held in Southern California on days and times that are more accessible to working immigrant parents.

In conclusion, we request that you take the necessary steps to come into compliance with your obligations under state and federal law to translate these important documents for the State’s LEP parents and that the comment period be extended and hearing process be revised to address the needs of the parents of EL students. Please inform us by August 25, 2017, whether you intend to come into compliance with the law. If you have any questions about our request, please contact either Cynthia Rice or Deborah Escobedo through the contact information provided below.

Thank you for your consideration,

Deborah Escobedo

Cynthia L. Rice, Director of Litigation,
Advocacy & Training
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On behalf of:

Betty Hung, Policy Director
Asian Americans Advancing Justice | Los Angeles

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Jordan Thierry, Senior Program Associate
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cc: The Honorable Tom Torlakson, State Superintendent of Public Instruction
Karen Stapf Walters, Executive Director, State Board of Education
Judy M. Clas, Chief Counsel, State Board of Education
September 1, 2017

Deborah Escobedo, Senior Attorney,  
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Sent via email:  
descobedo@lccr.com  
crice@crla.org

Dear Ms. Escobedo and Ms. Rice:

This is in response to your August 17, 2017, letter to State Board of Education (SBE)  
President Michael Kirst. You expressed concern about the proposed Title 5 regulations  
around the California Education for a Global Economy Initiative (CA Ed.G.E.).  
The regulations have been posted on the California Department of Education's (CDE)  
website since June 30, 2017, and can be found at:  
http://www.cde.ca.gov/re/lr/r/caedginitiative.asp

Pursuant to action by the SBE on July 12, 2017, the 45-day public comment period began on  
July 29, 2017 and closes on September 11, 2017. Because your letter was received during  
this designated period, we have forwarded your letter to the Regulations Coordinator, and it  
will be considered as a comment received from members of the public during the 45-day  
public comment period.

In response to your request to continue the September 11, 2017 public hearing date or the  
public comment period for these regulations, staff does not have the discretion to take these  
actions, since the SBE specifically directed the staff to commence the public comment period  
and to hold the public hearing on September 11, 2017. Consistent with the rule-making  
requirements, your request, along with all public comments received, will be considered by  
the SBE upon the close of the public comment period.
However, in order to assist parents of English Learner parents and students, a translated version (Spanish) of the regulations has been posted on the CDE website, and specifically on the page devoted to CA Ed.G.E. The link for that page is: http://www.cde.ca.gov/sp/el/er/caedge.asp.

Any member of the public can submit comments to the regulations in writing during the public comment period. In addition, comments can be made in person at the public hearing. These comments can be submitted in any language.

The CDE worked diligently to draft these regulations, and to put them out for public comment, with the end goal of efficient implementation of the CA Ed.G.E. initiative at the beginning of the 2018-19 school year. The regulation adoption process usually takes 10-12 months to complete.

If you have specific comments about the content of the regulations, we hope you will avail yourselves of this opportunity to comment. All public comments benefit the process.

Sincerely,

Judy Cias
Chief Counsel
State Board of Education

cc: The Honorable Tom Torlakson, Superintendent of Public Instruction
FAX

TO: Patricia Alverson, Regulations Coordinator
FROM: Cynthia L. Rice of California
       Rural Legal Assistance, Inc.

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SUBJECT: Comments regarding Notice of Proposed Rulemaking - Amendment to California Code of Regulations, Title 5, Regarding California Education for a Global Economy Initiative

DATE: September 11, 2017

COMMENTS: 22 pages including fax cover page
This document has also been emailed to regcomments@cde.ca.gov.
Date: September 11, 2017

To: Patricia Alverson, Regulations Coordinator Administrative Support and Regulations
Adoption Unit California Department of Education
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Re: Comments regarding Notice of Proposed Rulemaking - Amendment to California Code of Regulations, Title 5, Regarding California Education for a Global Economy Initiative

I. INTRODUCTION

This memorandum is submitted in response to the “Notice of Proposed Rulemaking” dated July 28, 2017 in which the State Board of Education (SBE) proposes regulations implementing the California Education for a Global Economy Initiative (CA Ed.G.E.) The proposed regulations
modify several provisions of Title 5 of the California Code of Regulations (CCR) related to the education of English Learner (EL) students including 5 CCR §§ 11300, 11301, 11309, 11310 and 11316 and add Sections 11311 and 11312.

As explained in this memorandum, we have significant concerns about both the process by which this rulemaking is being undertaken and several of the substantive changes being proposed to the Title 5 Regulations. Substantively, there is little in the proposed regulations that further one of the underlying purposes of the CA Ed.G.E. Initiative, which is to promote the development of multilingual skills. Furthermore, in light of California’s strengthened commitment to local control and stakeholder engagement in the school funding and planning process, § 11301 and § 11311 should be broadened to require more robust stakeholder engagement and feedback for the development of language acquisition programs.

Finally, we object to § 11311(g) regarding denial of parental requests for language acquisition programs to the extent that it fails to require that the explanation be in writing or offer parameters as to what type of explanation is required. It also fails to establish a mechanism by which parents can challenge a school district’s denial of their requests for a new language acquisition program. Also, § 11311(g) unnecessarily more than triples the amount of time that school districts have to respond to parental requests for language acquisition programs as compared to the Proposition 227 regulations.

II. ANALYSIS

In November 2016, California voters repealed Proposition 227 overwhelmingly replacing it with Proposition 58, also known as the CA Ed.G.E. Initiative. Proposition 227 stated that “all children in California public schools shall be taught English by being taught in English.” In sharp contrast, the CA Ed.G.E. Initiative recognizes that multilingual learning is beneficial for students as well as a coveted ability in the broader California economy. To that end, it is intended to provide an opportunity for all students to develop skills that lead to their proficiency in English and another language; and to ensure that districts meet the obligation to ensure that EL students obtain proficiency in English and reach at least grade level proficiency in academic achievement. CA Ed.G.E. affirmatively rejects the Proposition 227 English language instruction presumption that restricted the rights of Limited English Proficient (LEP) parents to choose from a range of pedagogically sound language acquisition programs – including dual-language immersion — to
address the needs of their children. Yet, the proposed regulations fail to require that districts provide parents with adequate notice regarding those other programs and overly emphasize Sheltered English Immersion (SEI) programs while failing to even include the definition of dual-language immersion or transitional/developmental programs included in the initiative.

Largely, we believe that the proposed regulations should provide a roadmap for districts and an explanation of rights for parents that will promote compliance with CA Ed.G.E. Additionally, as parents are key to effective education, and in keeping with the goals of California's newly implemented Local Control Funding Formula, the regulations should provide direction to school districts about effectively engaging with stakeholders to create instruction that matches local needs. The regulations should also facilitate parental involvement in the consideration of new language acquisition programs designed to assist EL students to learn academic English and to provide to all students opportunities to gain multilingual skills. As will be explained below, the regulations could be strengthened and expanded to achieve these worthwhile objectives.

A. Procedural Objections

We described in great detail by letter dated August 17, 2017 that the parents of the 1.3 million EL students enrolled in our schools have been summarily excluded from this process by the failure of the SBE to translate the proposed regulations, the ISR and the Notice of Rulemaking into languages other than English. As a result of this failure, the SBE was in violation of both state and federal civil rights statutes and regulatory provisions, including: Title VI of the Civil Rights Act of 1964, 20 U.S.C. 2000d, and its implementing regulations at 34 C.F.R. § 100.3(a); the Equal Educational Opportunities Act, 20 U.S.C. §§ 1701-1720; the Dymally-Allatorre Bilingual Services Act at Gov. Code § 7295; and Gov. Code § 11135. In that letter (which we incorporate into these comments and attach as Exhibit A) we asked that translation of these materials be completed immediately, made available to the public and a new notice and comment period be established to allow for input from the LEP community. The SBE responded on September 1, 2017 advising us that, "as a courtesy" the regulations had been posted in Spanish on the CA E.D.G.E website. After some searching we were able to find them, however, there is no Spanish language notice on the opening page of the website – or on the website providing notice of the rulemaking activity – that would inform non-English speakers that the regulations are available in another language. Moreover, the translated material does not include the notice,
the comment deadline, information about where to submit comments or the initial statement of reasons. It provides no meaningful opportunity for the LEP community to be involved.

Indeed, in light of the complexities involved with the development and provision of education programs and the need to address the intersection between CA Ed.G.E. implementation and Local Control and Accountability Plan (LCAP) requirements, the California Department of Education (CDE) should have convened stakeholders meetings prior to issuing notice of the proposed regulations. Gov. Code § 11346.45. It is deeply troubling that the Department did not even attempt to comply with that section or, in the proposed regulations or statement of reasons “...state the reasons for noncompliance with reasonable specificity...” as required by Gov. Code 11346.45(c). This is particularly true since it is routinely the practice of the State Board and the CDE to convene stakeholder sessions on policy matters.

Recommendation:
We recommend that the full regulatory notice packet be translated and posted and that a new notice period be voted on and approved at the September 11, 2017 meeting of the State Board of Education.

B. Modifications to Title 5 of the California Code of Regulations

1) The Definition of “English Learner Parental Advisory Committee” Must be Expanded So That It is Consistent with Current Law.

In Section 11300(b) the following definition of “English learner parental advisory committee” is proposed:

“English learner parental advisory committee,” means the committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063 and 52069, and Title 5 California Code of Regulations section 15495(b).

This definition should not be narrowly confined to advisory committee references related to the (LCAP). The ISR states, in part, that the “CA Ed.G.E. Initiative requires parent and community engagement regarding language acquisition programs and language programs as part of the process of developing a school district or county office of education LCAP, as required by LCFF” and therefore, the proposed definition “aligns to the LCFF and provides for consistent application in these regulations.” (ISR at 3.)
While it is critical that the development of appropriate programs be included in the LCAP process, that mandate does not undermine, much less dictate, the role that District-level English Learner Advisory Committees (DELAC) currently have under law. The definition should be expanded to include DELACs established pursuant to Educ. Code §§ 52176(b)-(c), 62002.5, 64001 and 5 CCR §11308(b) and (c). It is important to reference these other provisions because they set forth the composition, roles and responsibilities of these committees beyond what is required in the provisions related to the development of the LCAP.

"The words of the statute must be construed in context, keeping in mind the statutory purpose, and statutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible." Dyna-Med, Inc. v. Fair Employment & Housing Com. (1987) 43 Cal. 3d 1379, 1387. Pursuant to Education Code and regulatory provisions DELACs "shall advise the school district governing board" on the "development of a district master plan for education programs and services for English learners" and the "establishment of district program, goals, and objectives for programs and services for English learners." 5 CCR §11308. Reading these provisions together, it is clear that, DELACs, regardless of the LCAP requirements, must be consulted with respect to the development of language acquisition programs proposed by any District pursuant to CA Ed.G.E.

Recommendation:
The proposed definition should be amended as follows:

"English learner parent advisory committee," means the committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063, and 52069, 52176 (b) and (c), 62002.5 and 64001 (a) and Title 5 California Code of Regulations sections 11308 and 15495(b).


As noted above, one of the primary purposes of CA Ed.G.E. is to provide our students with the opportunity to develop multilingual skills that are necessary for our country’s national security

1 See the CDB webpage regarding DELACs, available at: http://www.cde.ca.gov/ta/tg/de/delac.asp.

2 As part of the Federal Program Monitoring process, the CDB continues to monitor the establishment of both DELACs and site level English Learner Advisory Committees (ELAC) pursuant to Education Code §§ 52176, 64001 and 5 CCR §11308, as well as Education Code § 32063. See the "California Department of Education English Learner (EL) On-site 2017-18 Program Instrument, pages 1-1, available at: http://www.cde.ca.gov/ta/tg/de/documents/propl714y2.pdf.
and essential to conducting in diplomacy and international programs." The Initiative further emphasizes that "California has a natural reserve of the world’s largest languages, including English, Mandarin, and Spanish, which are critical to the state’s economic trade and diplomatic efforts...." Educ. Code § 300 (e) and (f). Unfortunately, the proposed regulations do not reflect the purposes related to multilingualism. Indeed, they do the opposite and over-promote the very program that was imposed by Proposition 227, Sheltered English Immersion (SEI).

CA Ed.G.E, in Educ. Code § 306 (c) defines “language acquisition programs” as follows:

"Language acquisition programs" refers to educational programs designed to ensure English acquisition as rapidly and as effectively as possible, and that provide instruction to pupils on the state-adopted academic content standards, including the English language development standards. The language acquisition programs provided to pupils shall be informed by research and shall lead to grade level proficiency and academic achievement in both English and another language. (Emphasis added).

It is clear from this definition that language acquisition programs, per the underlying intent of the Initiative, are to address English acquisition, access to the core curriculum, and proficiency in a language other than English. Section 306(c) further identifies three separate programs that fall within the definition. They include: 1) dual-language immersion programs; 2) transitional or developmental programs for EL students; and, 3) Structured English Immersion (SEI) programs for EL students. Educ. Code § 306 (c)(1)-(3). Both dual language immersion programs and transitional/developmental programs for EL students provide academic instruction in languages other than English. SEI programs do not. The Initiative makes clear that SEI programs are the “minimum” that school districts are to provide EL students to ensure that they have access to the core curriculum and become proficient in English. Educ. Code § 305 (a)(2).

Contrary to Educ. Code § 306(c), Section 11300(d) of the proposed regulations narrows the definition of “language acquisition programs” by suggesting that such programs focus solely on English acquisition and content instruction solely through English Language Development (ELD). It makes no mention of academic instruction in languages other than English or the CA

1 Under Proposition 227, SEI programs were defined as “an English acquisition process for young children in which nearly all classroom instruction is in English but with the curriculum and presentation designed for children who are learning the language.”
Ed.G.E. goal of "grade level proficiency and academic achievement in both English and another language."

"Language acquisition programs" are educational programs designed for English learners to ensure English acquisition as rapidly and effectively as possible, that provide instruction to these pupils on the state-adopted academic content and ELD standards through Integrated and Designated ELD, and that meet the requirements described in section 11309 of this subchapter. (Emphasis added).

Three programs are explicitly identified in the Initiative as meeting the definition of "language acquisition program" yet, only the "minimum" --Proposition 227 preferred -- SEI program is defined in the proposed regulations. (Section 11300(a)) The proposed regulations borrow the language from Section 306(c)(3) and defines SEI programs as "a language acquisition program, where nearly all instruction is provided in English..." According to the ISR this regulatory definition was added "to facilitate access to the definition of "Structured English Immersion (SEI)," in EC sections 306(c)(2) and 306(c)(3)." If the intent was to facilitate access to the definition of SEI programs, then it should have done more than merely regurgitate verbatim the definition found in Section 306(c)(3). Including this definition, and excluding those for the other programs identified in CA Ed.G.E., suggests that districts may rely on SEI alone, or make it a preferred program and still fulfill their obligations under the law. Of course, this is not the case and is exactly what CA Ed.G.E. was designed to change.

The proposed regulations fail to even mention, much less define, dual-language immersion programs or transitional/developmental programs for EL students or any program that would ensure "academic achievement in both English and another language." Why was there no need to "facilitate access" to their definitions as found in Educ. Code §§ 306(c)(1) and (2)? It appears that by providing a definition for SEI programs and ignoring the others, the purpose was to elevate SEI programs to a status that was not intended by, and is in fact at odds with, CA Ed.G.E..

Proposed regulation Section 11300(e) further muddies the water by introducing a new category of programs referred to as "language programs," which are defined as:

... programs that are designed to provide opportunities for pupils to be instructed in languages other than English to a degree sufficient to produce proficiency in those languages, consistent with the provisions of Education Code section 395, subdivision (c).
According to the ISR, this separate definition is needed “to distinguish between “language programs” and “language acquisition programs,” which are designed for English learners.” (ISR at 3.) However, Educ. Code § 305 addresses second language acquisition for all students, including EL students. One must ask which programs are then included in § 11300(e)? None are identified. Do dual-language immersion programs fall under this definition? It is difficult to tell because dual-language immersion programs also enroll EL students and are designed to both produce proficiency in a second language and high academic achievement. Educ. Code § 306(c)(1).

Because of the vagueness of the proposed language, it is unclear what definition a dual-language immersion program or a transitional/developmental program for EL students would fall under.

It is clear that the proposed definition of “language acquisition program” must be amended so that it is not limited to SEI programs and includes those programs, such as dual-language immersion and transitional or developmental programs, which lead to grade level proficiency and academic achievement in both English and another language.4

Recommendations:

Proposed regulation § 11300 (d) should be amended to read as follows:

"Language acquisition programs" are educational programs designed for English learners to ensure English acquisition as rapidly and effectively as possible for English learners, that provide instruction to these pupils on the state-adopted academic content and ELD standards through Integrated and Designated ELD, and shall lead to grade level proficiency and academic achievement in both English and another language. Such programs include, but are not limited to: dual-language immersion, transitional or developmental programs for English learners, and Structure English immersion. Such programs shall meet the requirements described in section 11309 of this subchapter.

Proposed regulation § 11300 should also be amended to include the following definitions for both dual-language immersion programs and transitional/developmental programs for EL students:

(n) Dual-language immersion programs means a language acquisition program that provides integrated language learning and academic instruction for native speakers of English and native speakers of another language, with the goals of

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4 It should be noted that “language programs” are not subject to Sections 11309 or 11311, and therefore have less programmatic requirements and are not subject to the parental request requirements. Section 11312 only allows for feedback about which languages will be provided for a “language program” but not the content of the program.
high academic achievement, first and second language proficiency, and cross-cultural understanding.

(o) Transitional or developmental programs for English learners means language acquisition programs that provide instruction to pupils that utilizes English and a pupil's native language for literacy and academic instruction and enables an English learner to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, in order to meet state-adopted academic content standards.

3) Section 11380 Should Include a Definition of English Learner.

Educ. Code § 306(a) defines an EL student as follows: "English learner" means a pupil who is "limited English proficient" as that term is defined in the federal No Child Left Behind Act of 2001 (20 U.S.C Sec. 7801 (25))." This language does not provide adequate guidance with respect to the definition. However, it is clear that the underlying intent was to adopt the definition of English learner found under federal law.

Recommendation:

We recommend that a regulatory provision be added to Section 11300 to include the following definition:

An English learner student is an individual: (A) who is aged 3 through 21; (B) who is enrolled or preparing to enroll in an elementary school or secondary school; (C) (i) who was not born in the United States or whose native language is a language other than English; (ii)(!) who is a Native American or Alaska Native, or a native resident of the outlying areas; and (II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and (D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—(i) the ability to meet the challenging state academic standards; (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or (iii) the opportunity to participate fully in society.

According to California's current State Plan the above definition is found under the federal "Every Student Succeeds Act."

4) Section 11301 Fails to Adequately Reflect the New Requirements Imposed on Districts Regarding the Development of Language Acquisition Programs During the LCAP Process.

Educ. Code § 305(a) provides that as part of the LCAP process “school districts and county offices of education shall solicit input on, and shall provide to pupils, effective and appropriate instructional methods, including, but not limited to, establishing language acquisition programs, as defined in Section 306.” The three programs identified in Section 306 are “dual-language immersion programs,” “transitional or developmental programs,” and “Structured English Immersion programs.” Proposed § 11301(a) fails to include a reference to these programs instead requires only input “regarding the LEA’s existing language acquisition programs and language programs, and establishing other such programs.” This fails to capture the true intent of Ca Ed.G.E. which was to encourage the development of dual language acquisition programs in a landscape where very few schools have them due to restrictions imposed by Prop. 227. Section 11301(a) emphasizes existing programs while failing to require that districts provide any effective notice to parents or others about what other types of programs may be available.

Recommendation:
The regulation should be revised to track the language included in Educ. Code §§ 305 and 306, as follows:

(a) As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English learner parent advisory committee and the parent advisory committee, regarding the LEA’s existing language acquisition programs and language programs, and establishing other such programs including dual-language immersion programs, transitional or developmental programs, and Structured English Immersion programs.


a. The regulation should make clear the fact that a district must implement requested programs, to the extent possible.

Educ. Code § 310 states that parents “may choose a language acquisition program that best suits their child...” It further provides that when the parents of 30 pupils or more per school or the parents of 20 pupils or more per grade request a particular language acquisition program, a school “shall be required to offer such a program to the extent possible...” Given the language
of the initiative, the burden is on a school district to justify why parental requests for a particular language acquisition program will not be honored when the numerical triggers have been met. The proposed regulations fail to adequately reflect this burden and should, but do not, provide minimum guidelines to determine what is meant by the phrase “to the extent possible.” They must be revised to do so and to make clear that the presumption is that the school will provide the requested program.

Recommendation:

This could be addressed in Section 11311 by adding the following language as new subsection (a):

(A) A LEA shall establish and allow enrollment in any language acquisition programs requested by parents in accordance with Edus. Code § 310, to the extent possible.

Clarification of the circumstances under which a district may deny a request is critical to the uniform implementation of the requirements of CA Ed.G.E. Section 11311(g)(2) states that when the numerical triggers have been met, a school district shall, “Identify resources necessary to implement a language acquisition program, including but not limited to certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals.” However, it does not explain how these resources would factor into a determination that it is possible or not possible to implement the requested program immediately or in the future. The regulations must be augmented to address this deficiency.

b. The regulations should clarify and strengthen the type and form of notice required when a school district denies a parental request for a language acquisition program.

The proposed notice provisions are also inadequate. Section 11311(g)(3)(B) of the proposed regulation, applying to language acquisition programs, reads:

In the case where the LEA determines it is not possible to implement a language acquisition program requested by parents, the LEA shall provide an explanation of the reason(s) the program cannot be implemented in the school and may offer an alternate option that can be implemented at the school.

The regulations must be modified to specify the form that the denial is required to take as well as their consent. All explanations of denial should be required to be in writing.
Furthermore, § 11311(g)(3)(B) is inadequate to the extent that it contains no requirement that the explanation be reasonable or delineate specific reasons, saying only that the denying school district “may” offer an alternative. Particularly given that the school district is given 90 days to respond, a substantial window, the requesting parties are entitled to a reasonable explanation that they can understand and respond to. For context, under the parental waiver section of the current regulations § 11309, which is rendered unnecessary by the repeal of Proposition 227:

> (parents and guardians must be provided with a full written description and, upon request from a parent or guardian, a spoken description of the structured English immersion program and any alternative courses of study and all educational opportunities offered by the school district and available to the pupil.

Similar standards should apply here. This type of notice is necessary to create the type of parental engagement envisioned by CA Ed.G.E.. It also provides parents a basis on which to challenge decisions with which they do not agree.

e. A response time of 90 days to act on parental requests encourages needless delay.

Under § 11311(g)(7) of the proposed regulations, school districts are given 90 days to respond to parental requests for language acquisition programs. This time-frame nearly triples the allotted time for similar processes under Proposition 227. When parents sought waivers under Proposition 227, the comparable time frame read:

> [a]ll parental exception waivers shall be acted upon by the school within twenty (20) instructional days of submission to the school principal. However, parental waiver requests under Education Code § 311(c) shall not be acted upon during the thirty (30)-day placement in an English language classroom. These waivers must be acted upon either no later than ten (10) calendar days after the expiration of that thirty (30)-day English language classroom placement or within twenty (20) instructional days of submission of the parental waiver to the school principal, whichever is later.” § 11309.

A similar time-frame is needed under these regulations.

Recommendation:

The regulations should be revised to include a requirement that the district notify the requesting parent within five school days about whether the requested program is currently available, or whether the trigger for such a program has or has not been reached. Districts should have to similarly advise requesting parents within five school days after the threshold is met if that
occurs at a later time. Finally, the time within which the district must determine whether it is possible to implement the requested language acquisition program and provide notice, in writing, to parents of pupils attending the school, the school’s teachers, and administrators, of its determination, should be reduced to 30 days.

d. The proposed regulations should provide parents with a method of appeal.

in the event that districts do not abide by the requirements of CA Ed.O.E. parents should have a mechanism for appeal that is speedy and effective. Because considerable time will have elapsed between the request and denial; and because failure to establish a program will necessarily be a district level decision; we propose that parents be allowed to appeal directly to the California Department of Education, or State Board of Education.

e. The proposed regulations should facilitate broader stakeholder engagement in the creation of language acquisition programs.

The purpose of § 11309 as proposed is to “connect Ed. Code § 305(a)(1), (2) and § 306(c) with the federal obligations for the creation, implementation and evaluation of language acquisition programs for English learners. The obligations detailed in [that] section are supported by 20 U.S.C. § 1703.” (ISR at 5.) Largely, these obligations are exactly in keeping with the goals of CA Ed.O.E, but more could be done to encourage stakeholder engagement.

f. Proposed Regulation § 11311(i) is Inconsistent with Educ. Code § 310.

Section 11311(i) of the proposed regulations reads as follows:

A school may consider requests from parents of pupils enrolled in the school who are native speakers of English when determining whether a threshold specified in subdivision (g) is reached. (Emphasis added.)

Educ. Code § 310 does not make a distinction between parents of EL students and parents of native speakers of English with respect to determining the numerical triggers. Rather, the provision refers broadly to “parents or legal guardians of pupils.” This is of particular importance with respect to a request for a dual-language immersion program. As noted above, although the proposed regulations do not acknowledge such programs as a “language acquisition program,” the statute does and defines such programs as:
Dual-language immersion programs that provide integrated language learning and academic instruction for native speakers of English and native speakers of another language, with the goals of high academic achievement, first and second language proficiency, and cross-cultural understanding. Educ. Code § 306(c)(1).

(Emphasis added.)

The statute certainly requires that the parents of native English speakers be given the opportunity to request a dual-language immersion program along with the parents of EL students. Allowing a school district to not consider requests from the parents of native English speakers when determining numerical triggers would be inconsistent with the statute and would basically mean that dual-language immersion programs would rarely be implemented.

Recommendation:

Proposed regulation § 11311(i) should read as follows:

A school shall consider requests from parents of pupils enrolled in the school who are native speakers of English when determining whether a threshold specified in subdivision (g) is reached.

6 Section 11316 Should be Clarified to Ensure That Notice is Provided in the Primary Language Whenever Practicable.

School districts are required to comply with the anti-discrimination provisions of various state and federal laws, many of which make clear that an agency receiving state or federal funding must provide effective notice of key programs, irrespective of whether an arbitrary threshold is met in any particular language. Title VI of the Civil Rights Act of 1964, 20 U.S.C. 2000d, and its implementing regulations at 34 C.F.R. § 100.3(a). "School districts and [state] [educational] A[genties] have an obligation to ensure meaningful communication with LEP parents in a language they can understand and to adequately notify LEP parents of information about any program, service, or activity of a school district or SEA that is called to the attention of non-LEP parents." See also, the Equal Educational Opportunities Act, 20 U.S.C. §§ 1701-1720. Gov. Code § 11135 mandates that students and parents be provided "full and equal access to the benefits of" and not be "unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency." The proposed

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6 Dear Colleague Letter - Guidance to Ensure English Learner Students Have Access to a High-Quality Education, Office for Civil Rights and Department of Justice, (Jan. 7, 2015) page 27. Available at: https://www2.ed.gov/about/offices/list/ocr/colleague-el-201501.pdf.
regulations, in fact, cite to some of these obligations, but then impose only the minimum standard for compliance with language access obligations by referring to Educ. Code § 48985 which requires translation only at school sites where 15% or more of students enrolled speak a single primary language other than English. This is simply not adequate when drafting a regulation that is expressly designed to provide notice to and elicit input from non-English speakers about programs for their children.

**Recommendation:**

We propose that Section 11316 be revised to ensure that translated notices are provided unless it would be an unreasonable burden to do so.

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

All notices and other communications to parents or guardians required or permitted by these regulations must be provided in English and in the parents' or guardians' primary language unless provision of such notice is impracticable.


### III. CONCLUSION

We believe that it is of paramount importance that the implementation of the CA Ed.G.E. Initiative be in keeping with its stated values, allowing people from many different walks of life to engage in the rulemaking process. To that end, we hope that further efforts will be made to provide more opportunity for comment and consideration by issuing a new notice, in appropriate languages, and consider convening hearings or stakeholder meetings for input from those communities. We are encouraged by the development of a system that allows all parents to request a language acquisition program that best fits their children’s educational needs. In order for the program to meet its potential, schools must include all interested parents in the development of programs, provide meaningful notice of the program election process and not be permitted to simply deny these requests without meaningful explanation.

cc: Members, State Board of Education
Tom Torlakson, State Superintendent of Public Instruction
EXHIBIT A
Aug. 17, 2017

Dr. Michael W. Kirst, President
State Board of Education
1430 N Street, Room 5111
Sacramento, CA 95814-5901
sbe@sbe.ca.gov

Re: The State Board of Education Must Make the “Notice of Proposed Rulemaking—Amendment to California Code of Regulations, Title 5, Regarding California Education for a Global Economy Initiative” Accessible to the Parents of English Learner Students.

Dear President Kirst and State Board of Education Members:

We write to you as a coalition of community-based groups, educational organizations, public interest law firms and civil rights organizations concerned about the failure of the State Board of Education (SBE) to provide the Limited English Proficient (LEP) parents of California’s English Learner (EL) students meaningful access to the regulatory process regarding an issue of utmost importance to the education of their children.

As you are aware, in November 2016, the citizens of California voted overwhelmingly to repeal Proposition 227 and to replace it with Proposition 58, also known as the California Education for a Global Economy (CA Ed.G.E.) Initiative. Proposition 227 required that “all children in California public schools shall be taught English by being taught in English.” In sharp contrast the CA Ed.G.E. Initiative recognizes that multilingual learning is beneficial for all students as well as a coveted ability in the broader California economy. To that end, it allows EL students to develop skills that lead to their proficiency in English and another language. The initiative also recognizes the role of LEP parents to determine the program best suited to address the language needs of their children. “All parents will have a choice and voice to demand the best education for their children, including access to language programs that will improve their children’s preparation for college and careers, and allow them to be more competitive in a global economy.” (Educ. Code § 300 (k)).

Proposition 58 won by the largest margin of any other initiative on the ballot, with 73.6% of California voters voting in favor of the initiative and 26.4% voting against it.
The SBE's "Notice of Proposed Rulemaking" concerning the CA Ed.G.E. Initiative was posted on the California Department of Education's (CDE) website on July 28, 2017. The 45-day Public Comment period began on July 29, 2017, and ends on September 11, 2017. The proposed regulations amend some existing regulations and include several new provisions to Title 5 of the California Code of Regulations (CCR) related to the education of EL students, including Sections 11300, 11301, 11309, 11310, 11311, 11312, and 11316. Proposed amendments to §11300 include several new definitions, including how "Parents" and "Parent advisory committee" are defined. Section 11309 is amended to address language acquisition programs identified under the Initiative. Several of the proposed provisions directly address the role of parents and other stakeholders in choosing the language acquisition programs to be made available within a school district. Proposed regulation §11301 -- "Community Engagement" refers to the process for receiving input from parents through the development of a school district's Local Control and Accountability Plan (LCAP). Proposed regulation §11310 -- "Parental Notice" -- details how parents are to be notified of the language acquisition programs to be provided by a school district. Proposed regulation §11311 -- "Parental Requests for Language Acquisition Programs" -- addresses how school districts are to establish a process to receive and respond to parental requests to establish specific language acquisition programs. All of these proposed regulations are of utmost importance to the parents of EL students in determining how they can meaningfully exercise their rights as parents to advocate for programs to meet the educational needs of their children. These parents should have a meaningful opportunity to learn about and to comment on how the State should implement an initiative that was passed for the benefit of their children. It is deeply ironic that a fundamental purpose of CA Ed.G.E. initiative is to provide greater opportunity for EL students and their parents, yet all of the rulemaking information is publicly available solely in English.

The SBE must acknowledge that California has the largest EL student population in the United States and to conduct its business accordingly. Approximately 21.4% of all students enrolled in California schools are identified as EL. Another 21.3% of all students enrolled in California schools are Fluent English Proficient (FEP), which means that 42% of all California students come from homes where English is not the primary language. Of the approximately 1.3 million EL students enrolled in California public schools, 83.1% are Spanish speaking. The next two largest EL student language groups are: 1) Vietnamese (2.1%); and, 2) Mandarin (1.6%). Of the approximately 1.3 million FEP students enrolled in our public schools, 72.8% come from homes where Spanish is the primary language. The next two largest FEP language groups include: 1) Vietnamese (4.0%); and, 2) Mandarin (3.0%). Despite this large representation of non-

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3 See, CDE DataQuest report entitled, "English Learner Students by Language by Grade - State of California - 2016-17" available at: http://data1.cde.ca.gov/dq/summary/Learner/SubjectLanguage.aspx?Level=State&Year=2016-17&SubGroup=All&Status=1&Gender=1&Subject=0000&RecordType=EL.

4 See, CDE DataQuest report entitled, "Fluent-English-Proficient Students by Language by Grade - State of California - 2016-17" available at:
English speakers and concentration of Spanish speakers the SBE has published and advertised these regulatory proposals, notices of meetings, and requests for comment in English only.

Optimally, the State Board should provide information in the languages of the top ten language groups of our EL students, which include: Spanish, Vietnamese, Mandarin, Filipino, Arabic, Cantonese, Korean, Hmong, Punjabi and Russian. But it is particularly baffling that it would not be provided in Spanish, given that state-wide 1,107,214 EL students speak Spanish. An additional 961,418 students are classified as FEP Spanish speakers. In total, 2,068,632 students, or 33%, of all students enrolled in California schools come from homes where Spanish is the primary language. At a minimum, some effort should have been made to meaningfully include the parents of these children in this regulatory process, but no such effort was made. Instead, the manner in which the State Board has undertaken this rulemaking process undermines the stated legislative intent of the CA Ed.G.E. Initiative, which is premised on the fact that California has a moral and constitutional obligation to provide educational programs for all students regardless of ethnicity or national origin that ensure that they obtain the highest quality education, master the English language, and have access to high quality, innovative, and research-based language programs. (Educ. Code § 300 subsections (h), (n)). It also violates federal and state laws that are designed to ensure equal access to services provided by the State and its agencies.

The SBE is required under federal law to ensure that limited and non-English speaking parents are provided and receive important information provided to other parents in a language they can understand. (Title VI of the Civil Rights Act of 1964, 20 U.S.C. 2000d, and its implementing regulations at 34 C.F.R. § 100.3(a)). "School districts and State Educational Agencies have an obligation to ensure meaningful communication with LEP parents in a language they can understand and to adequately notify LEP parents of information about any program, service, or activity of a school district or SEA that is called to the attention of non-LEP parents."(See also, the Equal Educational Opportunities Act, 20 U.S.C. §§ 1701-1720). Under the Dymally-Allatorre Bilingual Services Act, state agencies have an obligation to ensure that any materials explaining services to the public be translated into any non-English language spoken by a substantial number of the public served by the agency. (Gov. Code § 7295).

http://www.cde.ca.gov/ds/de/stkns/d6/StudentsByLanguage.aspx?Level=State&TheYear=2016-17&SubGroup=All&ShortYear=1617&GenderGroup=B&CDSCode=000000000000000&RecordType=EP.


Given the above, we therefore request that the SBE immediately devote resources to translate the public documents related to the CA Ed.G.E Initiative rulemaking process into the top ten languages spoken by California's EL students and that they be posted as soon as possible on the CDE's rulemaking website. We also request that the time to submit comments with respect to the CA Ed.G.E Initiative proposed regulations be suspended until such time as the translated versions are posted, with a new extended 45-day comment period.

Compounding the problem with respect to EL parent access to the regulatory process is the fact that the public hearing concerning these regulations will be held at 1:30 p.m. on September 11, 2017. This is a weekday when many community members will be unable to attend because of work and family obligations. This timing makes it unlikely that the people most affected by the proposed regulations will be able to meaningfully engage in the rulemaking process. This exclusion is particularly nonsensical given that the proposed regulations purport to encourage stakeholder engagement. To address the unlawful exclusion of EL parents, we ask that the Special Hearing now scheduled for September 11th be postponed and that two hearings be scheduled once the translated versions of the rulemaking materials are posted. One hearing should be held in Northern California and the other should be held in Southern California on days and times that are more accessible to working immigrant parents.

In conclusion, we request that you take the necessary steps to come into compliance with your obligations under state and federal law to translate these important documents for the State's LEP parents and that the comment period be extended and hearing process be revised to address the needs of the parents of EL students. Please inform us by August 25, 2017, whether you intend to come into compliance with the law. If you have any questions about our request, please contact either Cynthia Rice or Deborah Escobedo through the contact information provided below.

Thank you for your consideration,

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On behalf of:
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Jordan Thierry, Senior Program Associate
PolicyLink

cc: The Honorable Tom Torlakson, State Superintendent of Public Instruction
    Karen Stapf Walters, Executive Director, State Board of Education
    Judy M. Clas, Chief Counsel, State Board of Education
From: Jorge Cuevas Antillon [mailto:jorgecuevasantillon@gmail.com]
Sent: Monday, September 11, 2017 2:06 PM
To: Patricia Alverson <PAlverson@cde.ca.gov>
Subject: Comments regarding the Proposition 58 Regulations

Please see attached comments and suggestions to improve the proposed regulations.
Thank you.

-Jorge Cuevas Antillon. Dual Language Education, College of Education, San Diego State University
Title 5. EDUCATION
Division 1. California Department of Education
Chapter 11. Special Programs
Subchapter 4. English Language Learner Education

§ 11300. Definitions.

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

(a) "Designated English Language Development (D-ELD)" means instruction provided during a protected time during the regular school day, in which there is a focus on state-adopted English language development (ELD) standards to assist English learners to develop critical English language skills necessary for academic content learning in English.

(b) "English learner parent advisory committee," means the committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063 and 52069, and Title 5 California Code of Regulations section 15495(b).

(c) "Integrated English Language Development (I-ELD)" means instruction in which the state-adopted ELD standards are used in tandem with the state-adopted academic content standards. Integrated ELD includes specially designed academic instruction in English.

(d) "Language Acquisition Programs (LAPs)" are educational programs designed for English learners to ensure English acquisition as rapidly and effectively as possible, that provide instruction to these pupils on the state-adopted academic content and ELD standards through Integrated and Designated ELD, and that meet the requirements described in section 11309 of this subchapter.

(e) "Multilingual Language Programs (MLPs)" are Language Acquisition Programs that are designed to provide opportunities for pupils to be instructed in languages other...
than English to a degree sufficient to produce proficiency in those languages, consistent with the provisions of Education Code section 305, subdivision (c).

Multilingual Programs include Dual Language Immersion, Transitional and Developmental Language Acquisition Programs.

(f) "Local control and accountability plan (LCAP)" means the plan created by a local educational agency (LEA) pursuant to Education Code sections 52060 or 52066, as applicable to the LEA.

(g) "Local educational agency (LEA)" means a school district or county office of education.

(h) "Parent advisory committee (PAC)" means a committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063 or 52069.

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

(j) "Stakeholders" means parents, pupils, teachers, administrators, other school personnel, and interested members of the public.

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

(l) "State-adopted English language development (ELD) standards" means standards adopted pursuant to Education Code section 60811.

(m) "Structured English Immersion (SEI)" means a Language Acquisition Program, where nearly all instruction is provided in English, with a curriculum and presentation designed for pupils who are learning English.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305, 306, 310, 18100, 18101, 51210.2, 51222, 52060, 52063, 52064, 52066, 52067, 52068, 52069, 56028, 56055, 60605, 60605.1, 60605.2, 60605.3, 60605.4, 60605.5, 60605.8, 60605.11, and 60605.13, Education Code; Sections 361 and 727, Welfare and Institutions Code; Sections 11308, 15495(b), and 15496(f), Title 5 California Code of Regulations.
§ 11301. Knowledge and Fluency in English:
(a) For purposes of “a good working knowledge of English” pursuant to Education Code Section 306 and “reasonable fluency in English” pursuant to Education Code Section 306(c), an English learner shall be transferred from a structured English immersion classroom to an English language mainstream classroom when the pupil has acquired a reasonable level of English proficiency as measured by any of the state-designated assessments approved by the California Department of Education, or any locally developed assessments.
(b) At any time, including during the school year, a parent or guardian may have his or her child moved into an English language mainstream classroom.
(c) An English learner may be re-enrolled in a structured English immersion program not normally intended to exceed one year if the pupil has not achieved a reasonable level of English proficiency as defined in Section 11301(a) unless the parents or guardians of the pupil object to the extended placement.

§ 11301. Community Engagement
(a) As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English Learner Parent Advisory Committee (ELPAC) and the Parent Advisory Committee (PAC), regarding the LEA’s existing language acquisition programs (Multilingual and SEI Programs) and language programs, and establishing other such programs.
(b) An LEA process for informing stakeholders and receiving input may include procedures such as stakeholder surveys, forums, and meetings with school advisory committees, or other groups representing stakeholders.
(c) Prior to adoption of an LEA’s LCAP, the school district superintendent or the county superintendent of schools shall include a written response to input received from the LEA’s English learner parent advisory committee and parent advisory committee relating to language acquisition programs and language programs with the superintendent’s response as described in Education Code sections 52062 and 52068.

§ 11309. Parental Exception Waivers.

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

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

(1) Parents and guardians must be provided with a full written description and upon request from a parent or guardian, a spoken description of the structured English immersion program and any alternative courses of study and all educational opportunities offered by the school district and available to the pupil. The descriptions of the program choices shall address the educational materials to be used in the different options.

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

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

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

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

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

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


§ 11309. Language Acquisition Programs

(a) LEAs shall provide language acquisition programs for English learners consistent with these regulations.

(b) Whenever an LEA establishes a language acquisition program, the LEA shall confer with school personnel, including teachers and administrators with authorizations required to provide or oversee programs and services for English learners, regarding the design and content of the language acquisition program.

(c) Any language acquisition program provided by an LEA shall:

(1) Be designed using evidence-based research and include both Designated and Integrated ELD.
(2) Be allocated sufficient resources by the LEA to be effectively implemented, including, but not limited to certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals; and

(3) Within a reasonable period of time, lead to:

(A) Proficiency in English, and, if applicable, another language; and

(B) Achievement of the state-adopted content standards in English, and, if applicable, another language.

(d) At minimum, an LEA shall provide a program of SEI for English learners.

(e) An LEA may provide language acquisition programs in addition to SEI, including programs that integrate instruction for native speakers of English and native speakers of another language, and meet the requirements of subdivision (c).


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

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


§11310. Parental Notice.

(a) An LEA shall notify parents of the language acquisition programs and any language programs provided by the LEA at the time and in the manner specified in Education Code sections 48980 and 48981. The notice specified in this section shall
include a description of the process for parents to request a language acquisition program or language program for their child.

(b) The notice for language acquisition programs shall include:

(1) A description of any such programs provided, including SEI;

(2) Identification of any language to be taught in addition to English, if applicable; and

(3) The information set forth in section 11309(c).

(c) The notice for language programs shall specify the language(s) to be taught, and may include the program goals, methodology used, and evidence of the proposed program’s effectiveness.

(d) Parents of pupils enrolling in the LEA after the beginning of the academic school year shall be provided the notice described in subdivision (a) upon enrollment. An LEA may provide notice to parents at additional times throughout the year.

(e) The notice to parents pursuant to this section shall be provided as described in subdivision (a). Additionally, verbal notice shall be provided, upon request, as reasonably necessary to effectuate notice to the parents.


§ 11311. Parent Requests for Language Acquisition Programs.

(a) An LEA shall define and name language acquisition programs available per site via information easily accessible to the public. Additionally, the LEA shall establish a process for schools of the LEA to receive and respond to requests from parents of pupils enrolled in the school to establish language acquisition programs other than, or in addition to, such programs already provided at the school. The LEA process shall require each school to make a written record of each request, including at least the following:

(1) The date of the request;

(2) The names of the parent and pupil;

(3) A general description of the request; and

(4) The pupil’s grade level on the date of the request.

(b) Each school shall maintain a written record of verbal requests that includes the information set forth in subdivision (a).
(c) Each school shall assist parents in clarifying requests, such as program type, as needed.

(d) Each school shall retain written records of parent requests for language acquisition programs for at least three years from the date of the request.

(e) A parent whose pupil is enrolled in a school for attendance in the next school year may submit a request for a particular language acquisition program.

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

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

1. Notify the parents of pupils attending the school, the school’s teachers, and administrators, in writing, of the parents’ requests for a language acquisition program, including formal notification to the LEA ELPAC and PAC;

2. Identify costs and resources necessary to implement any new language acquisition program, including but not limited to certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals; and

3. Determine, within 90 calendar days of reaching the threshold described in subdivision (g), whether it is possible to implement the requested language acquisition program; and provide notice, in writing, to parents of pupils attending the school, the school’s teachers, and administrators, of its determination:

   (A) In the case of an affirmative decision to implement a language acquisition program at the school, create and publish a reasonable timeline of actions necessary to implement the language acquisition program.

   (B) In the case where the LEA determines it is not possible to implement a language acquisition program requested by parents, the LEA shall provide an explanation of the reason(s) the program cannot be provided, and may offer an alternate option that can be implemented at the school.
(h) Each school shall follow the process set forth in subdivision (f), even when the LEA provides the requested language acquisition program at another school of the LEA at the time the threshold specified in subdivision (g) is met.

(i) A school may consider requests from parents of pupils enrolled in the school who are native speakers of English when determining whether a threshold specified in subdivision (g) is reached.


§ 11312. Language Programs
If an LEA provides a language program or proposes to offer a language program, the LEA shall establish a process for schools of the LEA to receive and respond to input from parents and stakeholders regarding the non-English language in which instruction is provided.

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

§ 11316. Language of Parental Notice to Parents or Guardians.
All notices and other communications to parents or guardians required or permitted by these regulations must be provided in English and in the parents' or guardians' primary language to the extent required under Education Code section 48985.

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

6-28-17 [California Department of Education]
Hi,

Please see the comment below regarding the proposed regulations for CA EdGE.

Patti

From: Jessica Murray [mailto:jmurray@sccs.santacruz.k12.ca.us]
Sent: Monday, September 04, 2017 9:22 PM
To: REGCOMMENTS <REGCOMMENTS@cde.ca.gov>
Subject: comments on CA EdGE (Prop. 58)

To Whom It May Concern,

I am a secondary teacher and coach with over 20 years of experience teaching ELs. I wanted to share my comments on the CA EdGE proposed changes.

In Section 11300, Definitions:

The proposed addition and language in Parts a), b), d), and e) of the definitions, which define Designated ELD, Integrated ELD, and Language Acquisition Programs versus Language Programs are clear and well-stated. They are excellent additions to our state laws and regulations.

Thank you for gathering this input.

Best regards,

Jessica Murray
English Learner Instructional Resource Teacher (ELIRT), Secondary Dept. of Curriculum, Instruction, and Assessment
Santa Cruz City Schools
405 Old San Jose Rd., Building 300
Soquel, CA 95073
(831) 429-3410 ext. 254
jmurray@sccs.net

"Progress begins with the belief that what is necessary is possible."
-- Norman Cousins
September 7, 2017

Patricia Alverson, Regulations Coordinator
California Department of Education
Patricia@cde.ca.gov

Dear Ms. Alverson,

I wish to bring to your attention the suggested amendments to the regulations associated with Proposition 58, dealing with the education of English Learners.

The suggested amendments are highlighted in yellow and written in bold italics.

The two suggested amendments are directed to Section 11309 and Section 11311.

The amendment to Section 11309 addresses the need to ensure that schools offer instruction in the language other than English which is differentiated to the individual needs of second language learners (English-speakers in this instance) and native speakers of that language.

The amendment to Section 11311 addresses the need that implementation of a requested language acquisition program can be denied or significantly delayed by a school for a broad number of reasons and parents have no statutorily defined recourse. When such programs are denied or significantly delayed by a school, parents should be provided, whenever possible, with the option to enroll pupils in a requested program at another school.

If you have any questions regarding these comments and suggestions, please contact me at your convenience.

Best Regards,

[Name]
Former Administrator, California Department of Education
§ 11309. Language Acquisition Programs

(a) LEAs shall provide language acquisition programs for English learners consistent with these regulations.

(b) Whenever an LEA establishes a language acquisition program, the LEA shall confer with school personnel, including teachers and administrators with authorizations required to provide or oversee programs and services for English learners, regarding the design and content of the language acquisition program.

(c) Any language acquisition program provided by an LEA shall:

1. Be designed using evidence-based research and include both Designated and Integrated ELD;

2. Be allocated sufficient resources by the LEA to be effectively implemented, including, but not limited to certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals;

3. Within a reasonable period of time, lead to:

   A. Proficiency in English, and, if applicable, another language;

   B. Achievement of the state-adopted content standards in English, and, if applicable, another language.

4. At minimum, an LEA shall provide a program of SEI for English learners.

5. An LEA may provide language acquisition programs in addition to SEI, including programs that integrate instruction for native speakers of English and native speakers of another language, and meet the requirements of subdivision (c).

6. When instruction is provided in and through a language other than English, such instruction shall be based on the assessed individual needs of the native speakers of English and the native speakers of the other language.


§ 11311. Parent Requests for Language Acquisition Programs.
(a) An LEA shall establish a process for schools of the LEA to receive and respond to requests from parents of pupils enrolled in the school to establish language acquisition programs other than, or in addition to, such programs provided at the school. The LEA process shall require each school to make a written record of each request, including at least the following:

1. The date of the request;
2. The names of the parent and pupil;
3. A general description of the request; and
4. The pupil's grade level on the date of the request.

(b) Each school shall maintain a written record of verbal requests that includes the information set forth in subdivision (a).

(c) Each school shall assist parents in clarifying requests, as needed.

(d) Each school shall retain written records of parent requests for language acquisition programs for at least three years from the date of the request.

(e) A parent whose pupil is enrolled in a school for attendance in the next school year may submit a request for a language acquisition program.

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

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

1. Notify the parents of pupils attending the school, the school's teachers, and administrators, in writing, of the parents' requests for a language acquisition program;
2. Identify resources necessary to implement a language acquisition program, including but not limited to certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals; and
(3) Determine, within 90 calendar days of reaching the threshold described in subdivision (g), whether it is possible to implement the requested language acquisition program; and provide notice, in writing, to parents of pupils attending the school, the school’s teachers, and administrators, of its determination:

(A) In the case of an affirmative decision to implement a language acquisition program at the school, create and publish a reasonable timeline of actions necessary to implement the language acquisition program.

(B) In the case where the LEA determines it is not possible to implement a language acquisition program requested by parents, the LEA shall provide an explanation of the reason(s) the program cannot be provided, and shall take reasonable steps to offer a suitable alternate option that can be implemented at the school as well as enrollment of pupils in the requested language acquisition option at another school in the LEA.

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

(i) A school may consider requests from parents of pupils enrolled in the school who are native speakers of English when determining whether a threshold specified in subdivision (g) is reached.

Patricia Alverson, Regulations Coordinator  
Administrative Support and Regulations Adoption Unit  
California Department of Education  
1101 Q Street, Room 531  
Sacramento, CA 95814

Regarding: Input and Comments on the proposed Title V Regulations for California Education for a Global Economy (CA Ed.G.E.)

California State PTA shares with many other organizations both interest and excitement regarding the opportunities for expanded program options leading to multilingualism for all of California's students.

We endorse the following recommendations made by Californians Together in order to bring additional clarity and direction to the language of CA Ed.G.E. and believe they should be considered in modifying the proposed regulations.

1. The definition of Parent Engagement must include and go beyond the advice of the English Learner Advisory Committee. The LCAP process for parent engagement is an outreach to all parents not just advisory committees. In addition, the language acquisition programs are for English Learners and parents of native English speakers. Only consulting the LCAP English Learner Advisory Committee does not include engagement of all parents and is a very limited definition for engagement in the process of establishing language acquisition programs.

2. The definition of "Language Acquisition Program" is confusing and creates the new category of "Language Program" which is not referenced in CA Ed. G. E. The regulations reference language acquisition programs and language programs. CA Ed. G. E. only specifies language acquisition programs and that definition includes "The language acquisition programs provided to pupils shall be informed by research and shall lead to grade level proficiency and academic achievement in both English and another language." This language should be included in the regulations and the language program should be deleted.

3. Definitions should include Dual Language Immersion, Transitional and Developmental Language Acquisition Programs. The definitions must define all language acquisition programs not just Structured English Immersion.

4. Parent Notification, Procedures, Timeliness and Appeal Process. There needs to be clarification that notification determining the language acquisition programs are for all parents to enroll their children. All notifications should be available in the languages spoken at that school. The timeline of 90 calendar days for a school to determine whether or not it is practicable to offer such a program is too long, could cause a year delay in program implementation and discourage parents to continue with their request. This period should not exceed 20-30 days. In the event the school decides it is not able to offer the program, there needs to be an appeal process delineated in the regulations.
In addition, California State PTA makes the following comments and recommendations related to specific language in Title 5, Education, Division 1, Chapter 11: Special Programs, Subchapter 4: English Language Learner Education.

Comment/Recommendation #1

Section 11300: Definitions. On Page 1, line 16 there is a reference to "protected time" during the regular school day in which there is a focus on state adopted English language development (ELD) standards to assist English learners. However, "protected time" is not defined.

PTA recommends that the CDE and State Board define "protected time" in further detail within the regulations that allows for public comment. Otherwise, teachers and parents will not know what to expect nor anticipate for each English learner in terms of their rights and access to ELD.

Comment/Recommendation #2

On Page 2, line 15, "Stakeholders" means parents, pupils, teachers, administrators, other school personnel, and interested members of the public.

Comment/Recommendation - PTA recommends inserting "and families" after parents. We would make the same recommendation throughout the regulations wherever "parents" are referenced.

Comment/Recommendation #3

Section 11301: Community Engagement. Recommendation: On Page 3 beginning on line 18 amend to read:

(a) As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English learner parent advisory committee and the parent advisory committee, and other parent and family organizations on school sites including but not limited to the Parent Teacher Association, school site councils, and other groups, regarding the LEA's existing language acquisition programs and language programs and establishing other such programs.

Comment/Recommendation #4

Section 11310: Parental Notice. Recommendation: Page 6, lines 31 and 32 amend to read:

...The notice specified in this section shall include a description of the process for parents and families, along with the timeline and deadlines, to request a language acquisition program or language program for their child.

Respectfully submitted on behalf of California State PTA by Mary Perry, Vice President for Education.
Patricia Alverson, Regulations Coordinator  
Administrative Support and Regulations Adoption Unit  
California Department of Education  
1430 N Street, Room 5319  
Sacramento, CA 95814

Regarding: Input and Comments on the proposed Title V Regulations for California Education for a Global Economy (CA Ed.G.E.)

There is much interest and excitement about the opportunities for expanded program options leading to multilingualism for all of California's students. The Title V regulations need to capture the intent and language of Proposition 58 to facilitate implementation. The following comments on the regulations are presented to bring additional clarity and direction to the language of CA Ed.G.E. and should be considered in modifying the proposed regulations.

1. The definition of Parent Engagement must include and go beyond the advice of the English Learner Advisory Committee. The LCAP process for parent engagement is an outreach to all parents not just advisory committees. In addition, the language acquisition programs are for English Learners and parents of native English speakers. Only consulting the LCAP English Learner Advisory Committee does not include engagement of all parents and is a very limited definition for engagement in the process of establishing language acquisition programs.

2. The definition of "Language Acquisition Program" is confusing and creates the new category of "Language Program" is not reference in CA Ed. G.E. The regulations reference language acquisition programs and language programs. CA Ed. G.E. only specifies language acquisition programs and that definition includes "The language acquisition programs provided to pupils shall be informed by research and shall lead to grade level proficiency and academic achievement in both English and another language." This language should be included in the regulations and the language program should be deleted.

3. Definitions should include Dual Language Immersion, Transitional and Developmental Language Acquisition Programs. The definitions must define all language acquisition programs not just Structured English Immersion.

4. Parent Notification, Procedures, Timeliness and Appeal Process. There needs to be clarification that notification determining the language acquisition programs are for all parents to enroll their children. All notifications should be available in the languages spoken at that school. The timeline of 90 calendar days for a school to determine whether or not it is
practicable to offer such a program is too long, could cause a year delay in program implementation and discourage parents to continue with their request. This period should not exceed 20-30 days. In the event the school decides it is not able to offer the program, there needs to be an appeal process delineated in the regulations.

I am requesting that the above issues be addressed in a new draft of regulations and another period of time be established for input on the modified regulations.

Inga Horwitz
Regarding: Input and Comments on the proposed Title V Regulations for California Education for a Global Economy (CA Ed.G.E.)

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2. The definition of “Language Acquisition Program” is confusing and creates the new category of “Language Program” is not reference in CA Ed. G. E. The regulations reference language acquisition programs and language programs. CA Ed. G. E. only specifies language acquisition programs and that definition includes “The language acquisition programs provided to pupils shall be informed by research and shall lead to grade level proficiency and academic achievement in both English and another language.” This language should be included in the regulations and the language program should be deleted.

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define all language acquisition programs not just Structured English Immersion.

4. **Parent Notification, Procedures, Timeliness and Appeal Process.** There needs to be clarification that notification determining the language acquisition programs are for all parents to enroll their children. All notifications should be available in the languages spoken at that school. The timeline of 90 calendar days for a school to determine whether or not it is practicable to offer such a program is too long, could cause a year delay in program implementation and discourage parents to continue with their request. This period should not exceed 20-30 days. In the event the school decides it is not able to offer the program, there needs to be an appeal process delineated in the regulations.

I am requesting that the above issues be addressed in a new draft of regulations and another period of time be established for input on the modified regulations.

Sincerely,

[Signature]

Arturo Ybarra
Executive Director
Patricia Alverson, Regulations Coordinator
Administrative Support and Regulations Adoption Unit
California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

Regarding: Input and Comments on the proposed Title V Regulations for California Education for a Global Economy (CA Ed.G.E.)

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1. **The definition of Parent Engagement must include and go beyond the advice of the English Learner Advisory Committee.** The LCAP process is an outreach to all parents, not just advisory members. In addition, the language acquisition programs are for all students, not just English learners and parents of native English speakers. Only consulting the LCAP English Learner Advisory Committee does not include engagement of all parents and is a very limited definition for engagement in the process of establishing language acquisition programs.

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Sincerely,

Vanessa Calderon Garcia
State Seal of Biliteracy District Coordinator
Learning Design Coach
Oxnard Union High School District
v.calderon@oxnardusd.org
Radio Bilingüe, Inc.

National Latino Public Radio Network
Listen Live! On the Web: radiobilingue.org

Patricia Alverson, Regulations Coordinator
Administrative Support and Regulations Adoption Unit
California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

Regarding: Input and Comments on the proposed Title V Regulations for California Education for a Global Economy (CA Ed G.E.)

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[Signature]

Hugo Morales
Regarding: Input and Comments on the proposed Title V Regulations for California Education for a Global Economy (CA Ed.G.E.)

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Cheryl L. Ortega
CHERYL L. ORTEGA
DIRECTOR OF BILINGUAL EDUCATION
UNITED TEACHERS LOS ANGELES
Patricia Alverson, Regulations Coordinator  
Administrative Support and Regulations Adoption Unit  
California Department of Education  
1430 N Street, Room 5319  
Sacramento, CA 95814

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Sincerely,

Daniel Ward

Editor
Language Magazine
21361B Pacific Coast Hwy
Malibu CA 90265
Patricia Alverson, Regulations Coordinator
Administrative Support and Regulations Adoption Unit
California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

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4. Parent Notification, Procedures, Timeliness and Appeal Process. There needs to be clarification that notification determining the language acquisition programs are for all parents to enroll their children. All notifications should be available in the languages spoken at that school. The timeline of 90 calendar days for a school to determine whether or not it is
practicable to offer such a program is too long, could cause a year delay in program implementation and discourage parents to continue with their request. This period should not exceed 20-30 days. In the event the school decides it is not able to offer the program, there needs to be an appeal process delineated in the regulations.

I am requesting that the above issued be addressed in a new draft of regulations and another period of time be established for input on the modified regulations.

Sincerely,

Claudia Lockwood (electronic signature)
I'm forwarding a public comment.

Patti

-----Original Message-----
From: Lopez-Mendez Veronika [mailto:vlopez-mendez@sandi.net]
Sent: Thursday, September 07, 2017 12:52 PM
To: Patricia Alverson <PA1verson@cde.ca.gov>
Subject: Prop 58

Patricia Alverson, Regulations Coordinator Administrative Support and Regulations Adoption Unit California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

Regarding: Input and Comments on the proposed Title V Regulations for California Education for a Global Economy (CA Ed.G.E.)

There is much interest and excitement about the opportunities for expanded program options leading to multilingualism for all of California’s students. The Title V regulations need to capture the intent and language of Proposition 58 to facilitate implementation. The following comments on the regulations are presented to bring additional clarity and direction to the language of CA Ed.G.E. and should be considered in modifying the proposed regulations:

1. The definition of Parent Engagement must include and go beyond the advice of the English Learner Advisory Committee. The CAP process for parent engagement is an outreach to all parents not just advisory committees. In addition, the language acquisition programs are for English Learners and parents of native English speakers. Only consulting the CAP English Learner Advisory Committee does not include engagement of all parents and is a very limited definition for engagement in the process of establishing language acquisition programs.

2. The definition of “Language Acquisition Program” is confusing and creates the new category of “Language Program” is not reference in CA Ed. G. E. The regulations reference language acquisition programs and language programs. CA Ed. G. E. only specifies language acquisition programs and that definition includes “The language acquisition programs provided to pupils shall be informed by research and shall lead to grade level proficiency and academic achievement in both English and another language.” This language should be included in the regulations and the language program should be deleted.

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I am requesting that the above issued be addressed in a new draft of regulations and another period of time be established for input on the modified regulations.

Veronika Lopez-Mendez, Principal
Rosa Parks Elementary
vlopez-mendez@sandi.net
To: Patricia Alverson, Regulations Coordinator  
Administrative Support and Regulations Adoption Unit  
California Department of Education  
1430 N Street, Room 5319  
Sacramento, CA 95814

From: Xilonin Cruz-Gonzalez  
609 E. Sierra Madre Ave  
Azusa CA 91702  
9/11/2017

Regarding: Input and Comments on the proposed Title V Regulations for California Education for a Global Economy (CA Ed.G.E.)

There is much interest and excitement about the opportunities for expanded program options leading to multilingualism for all of California's students. The Title V regulations need to capture the intent and language of Proposition 58 to facilitate implementation. The following comments on the regulations are presented to bring additional clarity and direction to the language of CA Ed.G.E. and should be considered in modifying the proposed regulations.

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4. **Parent Notification, Procedures, Timeliness and Appeal Process.** There needs to be clarification that notification determining the language acquisition programs are for all parents to enrol their children. All notifications should be available in the languages spoken at that school. The timeline of 90 calendar days for a school to determine whether or not it is practicable to offer such a program is too long, could cause a year delay in program implementation and discourage parents to continue with their request. This period should not exceed 20-30 days. In the event the school decides it is not able to offer the program, there needs to be an appeal process delineated in the regulations.

I am requesting that the above issues be addressed in a new draft of regulations and another period of time be established for input on the modified regulations.

Sincerely,

Xilonin Cruz-Gonzalez
Azusa USD Board of Education Vice-President
389 E. Sierra Madre Ave,
Azusa CA 91702
xjgonjn@gmail.com
September 11, 2017

Patricia Alverson, Regulations Coordinator
Administrative Support and Regulations Adoption Unit
California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

Dear Ms. Patricia Alverson:

I have been in education with a focus on English Learners for nearly twenty years, and I am excited to see the proposed Title V Regulations for California Education for a Global Economy (CA Ed.G.E.). Thanks to California Department of Education for this work.

There is much interest and excitement about the opportunities for expanded program options leading to multilingualism for all of California’s students. The Title V regulations need to capture the intent and language of Proposition 58 to facilitate implementation. The following comments on the regulations are presented to bring additional clarity and direction to the language of CA Ed.G.E. and should be considered in modifying the proposed regulations.

1. The definition of Parent Engagement must include and go beyond the advice of the English Learner Advisory Committee. The LCAP process for parent engagement is an outreach to all parents not just advisory committees. In addition, the language acquisition programs are for English Learners and parents of native English speakers. Only consulting the LCAP English Learner Advisory Committee does not include engagement of all parents and is a very limited definition for engagement in the process of establishing language acquisition programs.

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3. Definitions should include Dual Language Immersion, Transitional and Developmental Language Acquisition Programs. The definitions must define all language acquisition programs not just Structured English Immersion.

4. Parent Notification Procedures, Timeliness and Appeal Process. There needs to be clarification that notification determining the language acquisition programs are for all
parents to enroll their children. All notifications should be available in the languages spoken at that school. The timeline of 90 calendar days for a school to determine whether or not it is practicable to offer such a program is too long, could cause a year delay in program implementation and discourage parents to continue with their request. This period should not exceed 20-30 days. In the event the school decides it is not able to offer the program, there needs to be an appeal process delineated in the regulations.

I am requesting that the above issue be addressed in a new draft of regulations and another period of time be established for input on the modified regulations.

Best regards,

Vickie Ramos Harris  
Montebello, CA  
vickie.ramos.harris@gmail.com  
213-394-9441
Carla B. Herrera  
17313 Leslie Avenue  
Cerritos, CA 90703  
562-500-8820 Cell - cbherrera@mac.com

Patricia Alverson, Regulations Coordinator  
Administrative Support and Regulations Adoption Unit  
California Department of Education  
1430 N Street, Room 5319  
Sacramento, CA 95814

September 11, 2017

Regarding: Input and Comments on the proposed Title V Regulations for California Education for a Global Economy (CA Ed.G.E.)

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1. The definition of Parent Engagement must include and go beyond the advice of the English Learner Advisory Committee. The LCAP process for parent engagement is an outreach to all parents, not just advisory committees. In addition, the language acquisition programs are for English learners, native English speakers, as well as for already bilingual (1-FEP/R-FEP) students. Therefore there must be an outreach to ALL parents including ELs, I-FEPs, R-FEPs and native English speakers. Only consulting the LCAP English Learner Advisory Committee does not include engagement of all parents and is a very limited definition for engagement in the process of establishing language acquisition programs.

2. The definition of “Language Acquisition Program” is confusing and creates the new category of “Language Program” that is not referenced in CA Ed. G. E. The regulations reference language acquisition programs and language programs CA Ed. G. E. only specifies language acquisition programs and that definition includes “The language acquisition programs provided to pupils shall be informed by research and shall lead to grade-level proficiency and academic achievement in both English and another language.” Only this language should be included in the regulations and the language program should be deleted.
3. **Definitions should include Dual Language Immersion/Two-Way Bilingual Immersion, Transitional and Developmental Language Acquisition Programs.** The definitions must define all language acquisition programs, not just Structured English Immersion.

4. **Parent Notification, Procedures, Timeliness and Appeal Process.** There needs to be clarification that notification determining the language acquisition programs are for all parents to enroll their children. All notifications should be available in the languages spoken at that particular school. The timeline of 90 calendar days for a school to determine whether or not it is practicable to offer such a program is too long, could cause a year delay in program implementation and discourage parents to continue with their request. This period should not exceed 20-30 days. In the event the school decides it is not able to offer the program, there needs to be an appeal process delineated in the regulations.

I hereby request that the above issues be addressed in a new draft of regulations and another period of time be established for input on the modified regulations.

Thank you for your consideration.

Sincerely,

Carla B. Herrera
Retired Bilingual Educator
Two-Way Immersion Specialist and Consultant
Patricia Alverson, Regulations Coordinator
Administrative Support and Regulations Adoption Unit
California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

Regarding: Input and Comments on the proposed Title V Regulations for California Education for a Global Economy (CA Ed.G.E.)

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I am requesting that the above issued be addressed in a new draft of regulations and another period of time be established for input on the modified regulations.

Martha Hernandez
2630 Bellerive Court
Oxnard, California 93036
This is the official scanned version of Item 16 Attachment 5 from the California State Board of Education (SBE) Meeting Agenda for November 2017 posted at http://www.cde.ca.gov/be/ag/ag/yr17/agenda201711.asp

An accessible version of the contents of this document is located at http://www.cde.ca.gov/be/ag/ag/yr17/nov17/item16a5aav.asp

The scanned document starts following this initial page.
## ECONOMIC IMPACT STATEMENT

**DEPARTMENT NAME:** CA Dept of Education  
**CONTACT PERSON:** Amy Tang-Paterno  
**EMAIL ADDRESS:** atangpaterno@cde.ca.gov  
**TELEPHONE NUMBER:** 322-6630

### 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:

   - [ ] a. Impacts business and/or employees  
   - [ ] b. Impacts small businesses  
   - [ ] c. Impacts jobs or occupations  
   - [ ] d. Impacts California competitiveness  
   - [ ] e. Imposes reporting requirements  
   - [ ] f. Imposes prescriptive instead of performance  
   - [ ] g. Impacts Individuals  
   - [X] h. None of the above (Explain below):

   **The regulations align to statute and would not impose additional private sector costs**

   **If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**  
   **If box in Item h. is checked, complete the Fiscal Impact Statement as appropriate.**

2. The estimate(s) (Agency/Department) estimates that the economic impact of this regulation (which includes the fiscal impact) is:

   - [ ] Below $10 million  
   - [ ] Between $10 and $25 million  
   - [ ] Between $25 and $50 million  
   - [ ] Over $50 million [If the economic impact is over $50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)].

3. 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:

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

   Explain:

5. Indicate the geographic extent of impacts:

   - [ ] Statewide  
   - [ ] Local or regional (List areas):

6. Enter the number of jobs created: and eliminated:

   Describe the types of jobs or occupations impacted:

7. 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: 

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: $  
   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 of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: 

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? $  

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: 

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: 

PAGE 2
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.

   California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises exceed $10 million?  
   □ YES  □ NO

   If YES, complete E2. and E3
   If NO, skip to E4

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

   Alternative 1: _______________________________________________
   Alternative 2: _______________________________________________

   (Attach additional pages for other alternatives)

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

   Regulation:  Total Cost: $ ___________  Cost-effectiveness ratio: $ ___________
   Alternative 1: Total Cost: $ ___________  Cost-effectiveness ratio: $ ___________
   Alternative 2: Total Cost: $ ___________  Cost-effectiveness ratio: $ ___________

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding $50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?
   □ YES  □ NO

   If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

   The increase or decrease of investment in the State:

   ___________________________________________________________

   The incentive for innovation in products, materials or processes:

   ___________________________________________________________

   The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency:

   ___________________________________________________________
STATE OF CALIFORNIA — DEPARTMENT OF FINANCE
ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)
STD. 326 (REV. 12/2013)

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 in the current State Fiscal Year which are reimbursable by the State. (Approximate)
   (Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).
   
   $ ____________________________
   
   a. Funding provided in
   Budget Act of ___________ or Chapter _________, Statutes of ____________________________
   
   b. Funding will be requested in the Governor's Budget Act of ____________________________

   Fiscal Year: ____________________________

☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
   (Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

   $ ____________________________

   Check reason(s) this regulation is not reimbursable and provide the appropriate information:

   a. Implements the Federal mandate contained in
   ____________________________________________________________

   b. Implements the court mandate set forth by the
   ____________________________________________________________
   Court.
   Case of: ___________________________________________ vs. ____________________________

   c. Implements a mandate of the people of this State expressed in their approval of Proposition No.
   ____________________________________________________________

   Date of Election: ____________________________

   d. Issued only in response to a specific request from affected local entity(s).

   Local entity(s) affected: ____________________________

   e. Will be fully financed from the fees, revenue, etc. from:
   ____________________________________________________________

   Authorized by Section: ____________________________ 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;

   g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in
   ____________________________________________________________

   3. Annual Savings. (approximate)

   $ ____________________________

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

☐ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

☒ 6. Other. Explain
   The regulations do not impose any additional costs as they further define Education Code 300, 305, 306, 310, 320, and 335.
FISCAL IMPACT STATEMENT (CONTINUED)

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 in the current State Fiscal Year. (Approximate)

$ ____________________________

It is anticipated that State agencies will:

☐ a. Absorb these additional costs within their existing budgets and resources.

☐ b. Increase the currently authorized budget level for the ____________________________ Fiscal Year

☐ 2. Savings in the current State Fiscal Year. (Approximate)

$ ____________________________

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.

☒ 4. Other. Explain  The regulations do not impose any additional costs upon the state as they concur with existing regulations and serve only to define specific under Proposition 58.

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 in the current State Fiscal Year. (Approximate)

$ ____________________________

☐ 2. Savings in the current State Fiscal Year. (Approximate)

$ ____________________________

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

☐ 4. Other. Explain

______________________________

FISCAL OFFICER SIGNATURE  

DATE  

July 6, 2017

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, 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.

AGENCY SECRETARY

DATE  

7/7/17

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE
Economic and Fiscal Impact Statement


Department Name: California Department of Education

Contact Person: Amy Tang-Paterno

E-mail Address: atangpaterno@cde.ca.gov

Telephone Number: 916-322-6630

Descriptive Title From Notice Register Or From 400: California Education for a Global Economy Initiative

Notice File Number: Z

Economic Impact Statement

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

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

- Selected option is H: None of the above (Explain below)
- Option H explanation: The regulations align to statute and would not impose add'l private sector costs

Fiscal Impact Statement

Section 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.)

- Selected option is 6: Other. Explain. The regulations do not impose any additional costs as they further define Education Code 300, 305, 306, 310, 320, and 335.

Section 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.)

- Selected option is 4: Other. Explain. The regulations do not impose any additional costs upon the state as they concur with existing regulations and serve only to define specifics under Proposition 58.

Section 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.)

- Selected option is 3: No fiscal impact exists. This regulation does not affect any federally funded State agency
Fiscal Officer Signature: Signed by Amy Tang-Paterno dated July 6, 2017

The signature attests that the agency has completed the STD.399 according to the instructions in the State Administrative Manual (SAM) sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or department not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

Agency Secretary: Contains signature dated July 7, 2017

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

Department of Finance Program Budget Manager: No signature.
CALIFORNIA STATE BOARD OF EDUCATION
NOVEMBER 2017 AGENDA

SUBJECT
STATE BOARD PROJECTS AND PRIORITIES.
Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board appointments and direction to staff; declaratory and commendatory resolutions; Bylaw review and revision; Board policy; approval of minutes; Board liaison reports; training of Board members; and other matters of interest.

SUMMARY OF THE ISSUE(S)

1. SBE Draft Preliminary Report of Actions/Minutes for the September 13-14, 2017 meeting

2. SBE Screening Committee recommendations regarding appointments to the Advisory Commission on Charter Schools, California Practitioners Advisory Group, and the Instructional Quality Commission

3. Board member liaison reports

RECOMMENDATION

The SBE staff recommends that the SBE:

1. Approve the Preliminary Report of Actions/Minutes for the September 13-14, 2017 meeting. (Attachment 1)

2. Consider the SBE Screening recommendations for appointments to the Advisory Commission on Charter Schools, California Practitioners Advisory Group, and the Instructional Quality Commission. (Attachment 2)

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

FISCAL ANALYSIS (AS APPROPRIATE)

Not applicable.

ATTACHMENT(S)

Attachment 1: State Board of Education Draft Preliminary Report of Actions/Minutes for the September 13-14, 2017 meeting (28 Pages) may be viewed at the following link: http://www.cde.ca.gov/be/mt/ms/.

Attachment 2: State Board of Education Screening Committee Recommendations for Appointments to the Advisory Commission on Charter Schools, California Practitioners Advisory Group, and the Instructional Quality Commission. This attachment will be provided as an Item Addendum.

SUMMARY OF THE ISSUES

Education Code (EC) Section 60200(b)(1) calls for the State Board of Education (SBE) to adopt instructional materials in history–social science every eight years. The previous adoption was completed in 2005, but EC Section 60200.7 suspended all work on instructional materials adoptions from July 2009 through July 1, 2015. EC Section 60212 authorizes the SBE to collect fees from participating publishers to fund the activities of the adoption.

EC Section 60204 directs the Instructional Quality Commission (IQC) to study and evaluate instructional materials submitted for adoption and to recommend materials for adoption to the SBE. The IQC has reviewed the 12 instructional materials programs that were submitted by publishers for the 2017 History–Social Science Adoption and is recommending 10 programs for adoption with edits and corrections and changes to address social content issues that were cited during the process.

RECOMMENDATIONS

The California Department of Education (CDE) recommends that the SBE act on the following two recommendations: (1) adopt the 10 instructional materials programs recommended by the IQC, and (2) direct CDE staff, in conjunction with members of the IQC and/or Content Review Experts (CREs), as needed, to work with publishers to ensure that the IQC-recommended edits and corrections and other publisher errata and administrative updates adopted by the SBE have been made to their revised instructional materials.

In order to meet the requirement of EC Section 60200(e), the CDE recommends that the SBE specifically find that fewer than five programs per grade level met the criteria for the adoption.

BRIEF HISTORY OF KEY ISSUES
Background
The SBE adopted the *History–Social Science Framework (Framework)* on July 14, 2016. The purpose of the *Framework* is to provide guidance on the implementation of a standards-based curriculum for teachers, administrators, other educators, parents/guardians, and other education stakeholders. The *Framework* includes significant instructional shifts, with a strong emphasis on content, literacy, inquiry, and citizenship, and supports for not only the existing California history–social science standards but also the *Common Core State Standards for English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects* and the *California English Language Development Standards*.

The *Framework* also addresses the *Criteria for Evaluating Instructional Materials: Kindergarten Through Grade Eight*. The criteria serve as the evaluation instrument for determining whether instructional materials align to the content standards, curriculum framework, and the other requirements established by the SBE. The criteria are organized into five categories. Materials that fail to meet the criteria in Category 1: History–Social Science Content/Alignment with the Standards will not be considered suitable for adoption. All criteria statements in Category 1 that are appropriate for the grade levels submitted must be met for a program to be adopted. In addition, programs must have strengths in each of categories 2 through 5 to be suitable for adoption.

The SBE adopted the Schedule of Significant Events for the 2017 History–Social Science Adoption on July 14, 2016, at the same meeting it adopted the *Framework*.

Adoption Process and Timeline

- **Publisher Briefings**: Initial briefings of publishers on the process for the adoption took place on July 28, 2016, and September 23, 2016. The July 28 briefing was a webinar that provided an overview of the California process, while the September 23 briefing focused on the content of the new *Framework*.

- **Appointment of Reviewers**: On January 11, 2017, the SBE appointed 99 Instructional Materials Reviewers (IMRs) and 21 CREs recommended by the IQC to serve as reviewers for the 2017 History–Social Science Adoption. Pursuant to the *California Code of Regulations, Title 5 [Education] (5 CCR)*, Section 9512, a majority of the IMRs were classroom teachers at the time of appointment.

- **Invitation to Submit Meeting with Publishers**: On January 18, 2017, the CDE conducted a Publishers Invitation to Submit meeting, which outlined the statutory and regulatory requirements for participation in the adoption.

- **Training**: The IQC and CDE staff trained the IMRs and CREs appointed by the SBE at the DoubleTree by Hilton in Sacramento on April 25–28, 2017, to prepare them for their independent review and subsequent deliberations. Commissioners trained reviewers in the SBE-adopted evaluation criteria, social content
requirements, and the adoption process. On the final day of training, reviewers attended presentations by publishers on their submitted programs.

- **Independent Review:** Starting in May and continuing through July, reviewers conducted their independent review of the submitted programs. Each of the 10 panels of reviewers was assigned one or two programs to review.

- **Deliberations:** The reviewers met in their assigned review panels at the DoubleTree by Hilton in Sacramento for deliberations held on July 25–28, 2017. The reviewers discussed the individual notes and citations they had developed while performing their independent reviews. A member of the IQC or another facilitator approved by the SBE was assigned to facilitate each panel. During deliberations, publishers were provided a formal publisher response time to address three to five questions on each of their respective programs posed by the panel members. In addition, at least twice each day, the deliberations process included an opportunity for public comment.

- **Public Comment Hearing:** The IQC hosted a meeting to take public comment on the 2017 History–Social Science Adoption on August 17, 2017, in Sacramento. Various publisher representatives and numerous members of the public provided comment at the meeting. In addition, extensive written public comment was provided by the public throughout the adoption process. Copies of all public comments received were made available to members of the IQC and SBE. Furthermore, all public comments received no later than July 10, 2017, were shared with the appropriate review panels.

- **IQC Action:** On September 27–28, 2017, the members of the IQC considered the recommendations from the IMR/CRE review panels, public comments, and reports from individual Commissioners to determine whether each program satisfied or did not satisfy the SBE-adopted evaluation criteria for this adoption. Prior to action, the IQC conducted two public hearings, one during the History–Social Science Subject Matter Committee (HSS SMC) meeting on September 27, 2017, and one during the full IQC meeting on September 28, 2017. Public comment was received by the IQC both in writing and in testimony at the public hearings. All public comments received by the IQC throughout the adoption process have been forwarded to the SBE.

- **Edits and Corrections:** Edits and corrections’ meetings will be scheduled with individual publishers after the SBE considers the IQC recommendations and takes its final action on the adoption. The process and timeline for edits and corrections meetings are specified in 5 CCR Section 9525, titled “Post Adoption Edits and Corrections Procedures.” These meetings with publishers will address any edits and corrections identified in the IMR/CRE Report of Findings and approved by the IQC at its September 28, 2017, meeting; all edits and corrections identified by the IQC and included in its recommendation to the SBE; and any additional edits and corrections that are required by the SBE. Publishers whose programs are adopted by the SBE will be required to complete all edits
and corrections within 60 days of CDE notification of the results of the edits and corrections meetings pursuant to 5 CCR Section 9525(e). No programs will be added to the CDE Price List of Adopted Instructional Materials online database until all edits and corrections have been made and verified.

Publisher Fees

Pursuant to EC Section 60212, and in accordance with 5 CCR Section 9517.3, this adoption was financed through one-time fees paid by participating publishers. Based upon CDE estimates of costs necessary to conduct the adoption, the fee was set at $5,000 per program per grade level submitted.

The law also included the provision that, upon the request of a small publisher or small manufacturer, the SBE may reduce the fee for participation in the adoption. EC Section 60209(e)(2) states that "small publisher" and "small manufacturer" mean an independently owned or operated publisher or manufacturer that is not dominant in its field of operation and that, together with its affiliates, has 100 or fewer employees and has average annual gross receipts of $10 million dollars ($10,000,000) or less over the previous three years. Three publishers submitted requests for small publisher fee reduction, but only one, First Choice Educational Publishing, went on to submit instructional materials for consideration.

Reports of Findings

The IMRs and CREs worked collaboratively during deliberations to produce a Report of Findings for each program. The reports include findings for each category of the criteria and citations that are exemplary (not exhaustive) to support those findings. The Reports of Findings are posted on the CDE History–Social Science Instructional Materials Web page and are linked at the end of this item.

All 12 of the submitted programs were recommended by the IMR/CRE panels for adoption, with some recommendations contingent upon satisfactory completion of specified edits and corrections. Edits and corrections are defined as inexact language, imprecise definitions, mistaken notations, mislabeling, misspellings, and grammatical errors. Edits and corrections do not include rewrites, including revisions of sections, chapters, or entire pages, or adding new content to a program. Rewrites are not allowed during the adoption process (5 CCR sections 9510[h] and [r] and 9519[f] through [g]). The review panels also provided citations for social content violations when those were found in the programs.

Instructional Quality Commission Recommendations

On September 27, 2017, the HSS SMC held a public hearing and discussed in depth the IMR/CRE Reports of Findings. The HSS SMC heard testimony from more than 140 members of the public during the public hearing. The discussion included the lists of edits and corrections included in the reports, social content citations, public comment received, and findings from Commissioners’ own independent reviews.
After the discussion by the HSS SMC, a roll-call vote was taken on the submitted programs. The 12 programs submitted by publishers received individual motions and votes. Each motion was stated in the affirmative in each case. A majority vote from the HSS SMC was required for any program to be recommended to the full IQC for adoption. The HSS SMC recommended 11 of the 12 programs that had been recommended by the review panels. The HSS SMC did not recommend the program Kids Discover California Social Studies (kindergarten through grade six) by Houghton Mifflin Harcourt. In its recommendation to the full Commission, the HSS SMC made numerous changes to the list of edits and corrections and social content citations issued by the review panels, including the addition of edits taken from the public comment submitted for the adoption.

On September 28, 2017, after receiving comment from more than 50 members of the public in a second open hearing, the full IQC engaged in an extended discussion of the HSS SMC’s recommendation before it took action to recommend programs to the SBE. Again, each program received individual roll-call votes. Nine Commissioners were required to vote in the affirmative to recommend any program.

The IQC recommended 10 of the 12 submitted programs. In addition to not recommending the K–6 program from Houghton Mifflin Harcourt, the Commission did not recommend the Social Studies for California program for grades six through eight by the same publisher. In its recommendation to the SBE, the IQC made additional changes to the list of edits and corrections and social content citations approved by the HSS SMC, including the addition of more edits taken from public comment.

The IQC adoption recommendations to the SBE are included in Attachment 1. Supporting details are provided in the IQC Advisory Report, which is posted on the CDE History–Social Science Instructional Materials Web page located at 2017 History–Social Science Adoption Instructional Quality Commission Advisory Report.

**EC Section 60200(e) Finding**

EC Section 60200(e) specifies that the SBE may adopt fewer than five programs per grade level if either fewer than five programs were submitted for adoption or if the SBE specifically finds that fewer than five programs meet the criteria for adoption and conducts a review of the degree to which the criteria and procedures for evaluation were consistent with the SBE-adopted curriculum framework.

In this adoption, the total number of recommended programs provide five or more basic instructional materials for each grade level in grade six through eight. However, only four programs were recommended for each grade level in kindergarten through grade five. Because five or more programs were submitted in those grade levels, if the SBE elects to adopt the programs recommended by the IQC, it must find that fewer than five programs per grade level met the criteria for the adoption and conduct a review of the degree to which the criteria and procedures for evaluation were consistent with the SBE-adopted curriculum framework. Liaisons from the SBE were present at all meetings of the IQC related to this adoption, and at the training and deliberations of reviewers, and can attest to the extent to which the process was aligned to the SBE-
adopted framework.

**SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

**July 14, 2016:** The SBE adopted the *History–Social Science Framework*, including the Criteria for Evaluating Instructional Materials: Kindergarten Through Grade Eight. At the same meeting, the SBE also approved the Schedule of Significant Events for the adoption and the online application form for IMRs and CREs.

**January 11, 2017:** The SBE appointed 99 IMRs and 21 CREs as recommended by the IQC. The SBE also approved the Standards and Evaluation Criteria Maps and the appointment of several non-IQC members to serve as facilitators for review panels.

**FISCAL ANALYSIS (AS APPROPRIATE)**

The 2017 History–Social Science Adoption is funded through the collection of publisher participation fees. The estimated cost for supplies, duplicating, conference rooms, travel, hotel accommodations, per diem expenses, and content expert honoraria is approximately $330,000. The total amount collected from publishers who participated in the adoption was $250,248. The remaining costs were absorbed by the CDE.

**ATTACHMENT(S)**

Attachment 1: Instructional Quality Recommendations to the State Board of Education on the 2017 History–Social Science Adoption (2 pages)

Attachment 2: [2017 History–Social Science Adoption Review Panel Reports of Findings](http://www.cde.ca.gov/ci/hs/im/hssimrcadvisoryreports.asp) (12 reports)

Attachment 3: [2017 History–Social Science Adoption Instructional Quality Commission Advisory Report](http://www.cde.ca.gov/ci/hs/im/) (260 pages)
Instructional Quality Commission Recommendations to the State Board of Education on the 2017 History–Social Science Adoption

These programs have not been adopted by the State Board of Education

The reports of the IMR/CRE review panels are posted in their entirety on the CDE History–Social Science Instructional Materials Web page at [http://www.cde.ca.gov/ci/hs/im/](http://www.cde.ca.gov/ci/hs/im/).

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CALIFORNIA STATE BOARD OF EDUCATION
NOVEMBER 2017 AGENDA

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

SUMMARY OF THE ISSUE(S)
This is a standing item on the agenda, which allows the members of the public to address the board on any matter that is not included in this meeting’s agenda.

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

BRIEF HISTORY OF KEY ISSUES
Not applicable.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION
Not applicable.

FISCAL ANALYSIS (AS APPROPRIATE)
Not applicable.

ATTACHMENT(S)
Not applicable.