

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

imab-adad-jul24item02

# California State Board of Education July 2024 Agenda Item #06

## Subject

High School Equivalency Program: Approve Commencement of a 15-Day Public Comment Period for Proposed Amendments to California Code of Regulations, Title 5, Sections 11530 and 11532.5.

## Type of Action

Action, Information, Consent

## Summary of the Issue(s)

California *Education Code* (*EC*) Section 51420 states the State Superintendent of Public Instruction (SSPI) shall issue a California High School Equivalency (HSE) Certificate and/or official score report to persons who have taken and passed an HSE test that has been approved by the California State Board of Education (SBE). *EC* Section 51426 indicates the SBE shall adopt rules and regulations necessary to implement this article. Updates are needed to the following *California Code of Regulations*, Title 5 (*5 CCR*), Article 2 title, sections 11530 and 11532.5. The proposed changes are:

* Redefine the term “Fee”
* Add “local educational agency” to the definition section
* Add required information to residency documents
* Include the specific name of and incorporating by reference the California High School Equivalency Declaration of California Residency Form.

## Recommendation

The California Department of Education (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 the 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 September 2024 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

The definition for “fee” in 5 *CCR* Section 11530(c) is proposed to restore the definition to its current language in title 5 of the California Code of Regulations. This change was necessary because there was no need to remove this language.

The CDE proposes to amend 5 *CCR* Section 11530(d) to add the definition for “local educational agency” for clarity.

Section 11532.5(a)(1)(B)(2) in current regulations exclude clear descriptions of required information that should be found on any documents used for proof of residency, including current home address, which is critically important with the addition of online, live-proctored testing. The launch of online testing has created vulnerabilities to identity impersonation and access to the test by non-California residents. Incorporating by reference, the California High School Equivalency Declaration of California Residency Form.

Section 11532.5(a)(1)(B)(2)(G) is proposed to be amended to incorporate by reference the California High School Equivalency Declaration of California Residency form, revised May 1, 2019 and to be available from CDE staff in the Assessment Development and Administration Division by request.

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

In January 2024, the SBE approved upon consent to adopt the Final Statement of Reasons and the Proposed Amendments to the 5 *CCR*, Article 2 title, sections 11530 and 11531, the deletion of Section 11532, and the addition of Section 11532.5 (<https://www.cde.ca.gov/be/ag/ag/yr24/documents/jan24item10.docx>).

In July 2023, the SBE authorized the beginning of the rulemaking process and commencement of a 45-Day Public Comment Period for Proposed Amendments 5 *CCR*, sections 11530 and 11531, the deletion of Section 11532, and the addition of Section 11532.5 (<https://www.cde.ca.gov/be/ag/ag/yr23/documents/jul23item06.docx>).

In March 2014, the SBE authorized the use of three official tests to be administered in California: the GED® test, the HiSET®, and the TASC® for the HSE test. However, beginning in 2020, the TASC® is no longer offered in California ([https://www.cde.ca.gov/be/ag/ag/yr14/documents/mar14item12.doc](https://www.cde.ca.gov/be/ag/ag/yr14/documents/mar14item12.doc" \o "This link opens the March 2014 SBE Agenda Item 12.)).

## Fiscal Analysis (as appropriate)

An Economic and Fiscal Impact Statement is provided as Attachment 5.

## Attachment(s)

* Attachment 1: 15-Day Public Notice of Modifications (2 pages)
* Attachment 2: Proposed Regulations (4 pages)
* Attachment 3: Final Statement of Reasons (2 pages)
* Attachment 4: Addendum to the Final Statement of Reasons (2 pages)
* Attachment 5: Economic and Fiscal Impact Statement (STD 399) (5 pages)
* Attachment 6: California High School Equivalency Declaration of California Residency (1 page)

**CALIFORNIA DEPARTMENT OF EDUCATION**

TONY THURMOND

State Superintendent of Public Instruction

916-319-0800

**CALIFORNIA STATE BOARD OF**

**EDUCATION**

LINDA DARLING-HAMMOND

President

916-319-0827

JULY 15, 2024

**15-DAY NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED**

**REGULATIONS REGARDING HIGH SCHOOL EQUIVALENCY PROGRAM**

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 26, 2023.

**Changes to the text:**

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:

General changes were made to the regulations to include grammatical edits, and

renumbering and/or re-lettering to reflect deletions or additions.

**Section 11530. Definitions**

**Section 11530(c)**is amended to restore the definition for “fee” to its current language in Title 5 of the California Code of Regulations. This change was necessary because there was no need to remove this language.

**Proposed Section 11530(d)** is added to define “local educational agency” to provide clarification when this term is used within these regulations. This addition was necessary to provide a clear and concise description.

**Section 11532.5. Identity and Residency Requirements**

**Section 11532.5(a)(2)** is amended to clarify that the documents that may be used by an examinee to prove their California residency must include a current address. This addition was necessary to provide clarity on approved documents.

**Section 11532.5(a)(2)(G)** is amended to incorporate by reference the California High School Equivalency Declaration of California Residency Form (Rev. May 1, 2019). This incorporation by reference is necessary because the form is listed as a last-resort option for claiming state residency.

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 July 15, 2024, and July 30, 2024, inclusive. All written comments must be submitted to the Regulations Coordinator via facsimile at 916-322-2549; email at [regcomments@cde.ca.gov](mailto:regcomments@cde.ca.gov) or mailed and received at the following address prior or on July 30, 2024, and addressed to:

Lorie Adame, Regulations Coordinator

Legal, Audits, and Charters Branch

Administrative Supports and Regulations Adoption Unit

California Department of Education

1430 N Street, Suite 5319

Sacramento, CA 95814

All written comments received prior to or on July 30, 2024, 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.

05-03-2024

* 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 comment period text proposed to be added is displayed in “**bold underline**”; text proposed to be deleted is displayed in “**~~bold strikeout~~**”.

**Title 5. EDUCATION****Division 1. California Department of Education**

**Chapter 11. Special Programs  
Subchapter 8. High School Proficiency Certificates**

**Article 2. High School Equivalency Certificate ~~- for Persons 18 Years of Age or Older~~**

**§ 11530. Definitions.**

(a) “Certificate” means a document containing the words “California High School Equivalency Certificate.”

(b~~c~~) “Certification” means documentation from a homeless services provider, or a county or state agency, certifying the examinee is a homeless youth or a foster youth.

(~~b~~c) “Fee,” ~~as referenced in Education Code section 51421(a),~~ ~~shall be $20.00 and~~ **as referenced in Education Code section 51421(a), shall be $20 and ~~refers to a payment~~** ~~shall be~~ **shall be** submitted ~~by the examinee~~ **by the examinee** at the time of initial registration **~~or when requesting services, such as ordering additional score reports or~~** ~~for a test to obtain a high school equivalency~~ **for a test to obtain a high school equivalency** certificate**~~s~~**.

**(d) “Local educational agency (LEA)” means any public school district, county office of education, or charter school.**

(**~~d~~e**) “Resident of this State” means a person who either presently lives in the State of California, or who has ~~his~~ their domicile in California in accordance with the criteria established in Government Code section 244.

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

NOTE: Authority cited: Sections 51421.5 and 51426, Education Code. Reference: Sections 51420, 51421, 51421.5 and 51425, Education Code.

**§ 11531. Approval of Testing Centers.**

(a) A testing center may be approved by the State Superintendent of Public Instruction (SSPI) to administer tests for purposes of Education Code section 51420 provided it has complied with all of the following:

(1) Provided the CDE with all required information indicating:

(A) Name of Institutional Chief Administrative Officer and title~~,~~;

(B) Name of Chief Examiner and Alternate Examiner(s) and their titles~~,~~;

(C) Name of testing facility~~,~~;

(D) Contracting agency or ~~school district,~~ local educational agency; and

(E) Address of the testing center.

(2) Agreed to comply with all test security requirements provided by the CDE and to maintain all required records regarding tests and testing activities.

(3) Agreed to provide each examinee with ~~his or her~~ their test scores.

(4) Agreed to inspection by authorized representatives of the CDE.

(b) The SSPI may suspend or revoke the approval, or deny renewal of an approval, of any center for failure or refusal to maintain any one or more of the standards described in subdivision (a) of this section.

NOTE: Authority cited: Section 51426, Education Code. Reference: Sections 51420, 51422 and 51423, Education Code.

**~~§ 11532. Eligibility~~****~~to Take a Test to Obtain a High School Equivalency Certificate.~~**

~~(a) A person is eligible to take a test to obtain a high school equivalency certificate no sooner than 60 days prior to the date he or she is eligible to receive a certificate pursuant to Education Code section 51420(c).~~

~~(b) The 60 day limitation in subdivision (a) does not apply to any person who is 17 years of age or older who has been out of school for at least 60 days and who submits a letter of request for the test from the military, a postsecondary educational institution or a prospective employer~~.

~~(c) Any person who is 17 years of age or older who is incarcerated in a California state or county correctional facility and who meets the following criteria is eligible to take a test to obtain a high school equivalency certificate:~~

~~(1) The person does not have a realistic chance of completing the requirements for a high school diploma.~~

~~(2) The person has adequate academic skills to successfully complete a test to obtain a high school equivalency certificate.~~

~~(3) The person understands the options available regarding acquisition of a high school diploma, the high school equivalency certificate or the high school proficiency certificate, and the requirements, expectations, benefits and limitations of each option.~~

~~(4) The person has sufficient commitment time left to complete an entire test to obtain a high school equivalency certificate battery before release; or if released before completion of the test, may complete testing at an authorized testing center.~~

~~NOTE: Authority cited: Section 51426, Education Code. Reference: Sections 51420 and 51422, Education Code.~~

**§ 11532.5. Identity and Residency Requirements.**

(a) Every examinee must provide proof of identification and residency prior to initial testing and retesting.

(1) Identification shall include:

1. Full legal name; and
2. Date of birth, signature, and photograph.

(2) Residency shall be proven by providing one of the following **~~current~~** documents **containing a current address**:

1. Rental or lease agreement;
2. Home utility bill;
3. Employment document;
4. Insurance document;
5. Court document listing applicant as a California resident;
6. California certificate of vehicle or vessel title or registration; or
7. Completed California High School Equivalency Declaration of California

Residency**, revised May 1, 2019, which is hereby incorporated by reference. A copy of this declaration is** **available from CDE staff in the Assessment Development and Administration Division**.

NOTE: Authority cited: Section 51426, Education Code. Reference: Sections 51420 and 51422, Education Code.

04-22-2024 [California Department of Education]

**FINAL STATEMENT OF REASONS**

High School Equivalency Program

**UPDATE OF INITIAL STATEMENT OF REASONS**

The original proposed text was made available for public comment for at least 45 days from August 11, 2023, through September 26, 2023, inclusive. One individual provided comments during the 45-day comment period.

A public hearing was held via videoconference on September 26, 2023, at 1:30 P.M.Eleven individuals attended the public hearing, and no oral comments were received at the public hearing.

**SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF August 11, 2023, THROUGH September 26, 2023, INCLUSIVE.**

**Name of Commenter:** April Moore, Ed.D., Superintendent, Sierra Sands Unified School District

**Comment:**

* Could you please clarify the intent of the change?
* Seems like the HSE might replace the CHSPE in all practicality.
* Could HSE be available for students/individuals at the second semester of sophomore year of high school or later?

**Accept/Reject**:

The CDE is rejecting this comment because it was simply requesting clarification that was already found in the initial statement of reasons. The two programs serve two separate populations and are not meant to replace the other.

**ALTERNATIVES DETERMINATION**

The State Superintendent of Public Instruction 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.

No alternatives have been brought to the agency’s attention and given the underlying statutory requirements; the agency has been unable to come up with any reasonable alternatives.

The nonadoption of these changes is not a suitable alternative because the proposed changes correct a misleading title regarding the age requirement, removes duplication of Education Code*,* and adds a much-needed section to clarify what are appropriate forms of identification.

**LOCAL MANDATE DETERMINATION**

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

10-23-2023 [California Department of Education]

**ADDENDUM TO FINAL STATEMENT OF REASONS**

HIGH SCHOOL EQUIVALENCY PROGRAM

**UPDATE TO FINAL STATEMENT OF REASONS**

***FIFTEEN-DAY PUBLIC COMMENT PERIOD OF JULY 15, 2024, THROUGH JULY 30, 2024, INCLUSIVE***

As a result of further review, the California Department of Education determined that additional clarification was necessary, which resulted in changes to the proposed regulations. These changes were made available for a 15-day public comment period from July 15, 2024, through July 30, 2024, inclusive.

These changes include:

General changes were made to the regulations to include grammatical edits, and

renumbering and/or re-lettering to reflect deletions or additions.

**Section 11530. Definitions**

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**Section 11532.5. Identity and Residency Requirements**

**Section 11532.5(a)(2)** is amended to clarify that the documents listed that may be used by an examinee to prove their California residency must include a current address. This addition was necessary to provide clarity on approved documents.

**Section 11532.5(a)(2)(G)** is amended to incorporate by reference the California High School Equivalency Declaration of California Residency Form. This incorporation by reference is necessary because the form is listed as a last-resort option for claiming state residency.

**INCORPORATION BY REFERENCE**

The California High School Equivalency Declaration of California Residency Form (revised May 1, 2019) is hereby incorporated by reference and is available upon request from CDE staff in the Assessment Development and Administration Division.

**UPDATE TO ALTERNATIVES DETERMINATION**

All alternatives considered by the State Board of Education were in the form of public comments.

04-22-2024