

FINAL MINUTES  
California State Board of Education  
March 6-7, 2002

Thursday, March 7, 2002

California Department of Education  
721 Capitol Mall, Room 166  
Sacramento, California

**Members Present**

Reed Hastings, President  
Joe Nuñez, Vice President  
Donald Fisher  
Erika Goncalves  
Susan Hammer  
Nancy Ichinaga  
Carlton Jenkins  
Marion Joseph  
Suzanne Tacheny

**Member Absent**

Vicki Reynolds

**Closed Session**

The Board met in Closed Session from 8:08 a.m. to 9:35 a.m. (See Closed Session Report below.)

**Call to Order: Public Session**

President Hastings called the meeting to order at 9:38 a.m.

**Salute to the Flag**

Mrs. Ichinaga led the Board, staff, and audience in the Pledge of Allegiance.

**Closed Session Report**

Ms. Belisle presented the report of actions taken in Closed Session.

1. *Government Code section 11126(a)*. Authorized the Board President to negotiate conditions of employment and to employ Rick Brandsma to be Executive Director of the State Board with such employment to begin upon the retirement of the current Executive Director.
2. *Angel V. v. Davis (Valeria G., et al., v. Wilson, et al.)*. Approved waiver of possible conflict in order to allow PLF to represent Mountain States in the litigation.
3. *Chapman, et al., v. California Department of Education, et al.* Authorized counsel to appeal or take other appropriate action to defend the state's High School Exit Examination.
4. *Comité de Padres de Familia v. Honig*. No action taken.
5. *Williams, et al., v. State of California, et al.* No action taken.

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ITEM 1	STATE BOARD PROJECTS. Including future meeting plans; agenda items; State Board office budget, staffing, staff appointments (including, but not limited to, the position of Executive Director), and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; review of the status of State Board-approved charter schools as necessary; and other matters of interest.	INFORMATION ACTION
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[Continued from the previous day’s agenda. See minutes for March 6, 2002.]

Retirement of Executive Director

President Hastings announced this was Mr. Mockler’s last meeting as the Board’s full-time executive director. He added that Mr. Mockler will be at the April 2002 meeting and asked that the Board save the accolades for then.

New Education Policy Consultant

President Hastings asked the Board for a motion authorizing the Executive Director and him to hire and set the terms of employment for an education policy consultant.

- Mrs. Ichinaga moved that the State Board authorize the Board President and the Executive Director to hire and set terms of employment for an education policy consultant. Mr. Jenkins seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent member, Ms. Goncalves, Ms. Tacheny, and Mrs. Joseph were not present at the time of the vote.

ITEM 16	Elementary and Secondary Education Act (ESEA)	INFORMATION ACTION
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Mr. Warren presented the Department’s timeline waiver. [Attachment 6, Response on Waiver of Timeline Reporting] He reported that in conversations with the U.S. Department of Education, the California Department of Education was asked by the U.S. Department of Education to bring the Department’s timeline waiver to the Board, as the State Educational Agency, for its approval. Mr. Mockler informed the Board that the document before them is shorthand for the Department’s response to inquiries by the federal department. The federal agency wants the Board’s concurrence in the request for a timeline waiver. The timeline waiver is for the old federal law. Mr. Mockler made clear that this is not a policy decision, the Board would just be concurring that the Department will take steps to follow the law and obtain a waiver of the applicable timelines, where necessary.

Mrs. Joseph remarked that the federal department does not like mixed messages. This needs to be clear. The Board had not seen this document until this morning. The Board has not reviewed it. She said that we need to be clear about what we are doing here. Mr. Mockler commented that the difficulty is that the Department needs to submit the waiver this month. The Board could concur without committing the Board to each dot on each “i”. He added that in the future there needs to be a more systematic process

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in the approach to ESEA.

Mr. Jenkins expressed concern that the Board is seeing this document for the first time now. He stated that it makes him nervous to act without time for review. He inquired whether there would be a new state plan under the new ESEA. He noted that by virtue of our approval, the Board would be in effect agreeing to future actions. Superintendent Eastin responded that the document shows how we comply with past federal law while we are concurrently showing that we are complying with current law. Mr. Jenkins observed that if the Board approves this document, then we are accountable for what the document says we are going to do. If we do not do these things, we will be in noncompliance.

Ms. Belisle noted that the State Board is the state educational agency for such things as state plans. The Board's action would be solely to authorize the Department to obtain a timeline waiver so that the state can receive funding and come into compliance; the Board would not be blessing the document, which the Department has just provided. She noted that she would be part of the federal negotiated rulemaking on assessment and accountability this month in Washington, D.C. This document is a living document and should only report to the federal department what the Board has already set policy on.

Mrs. Joseph suggested approving the request for the timeline waiver and not approving the document.

- ACTION: Mr. Fisher moved that the State Board authorize the California Department of Education to pursue a timeline waiver of Title 1 relative to the state's assessment and accountability system. Ms. Hammer seconded the motion. The motion was approved by a vote of 8-1. Mr. Abernethy voted against the motion. In addition to the absent member, Ms. Tacheny was not present when the vote was taken.

Mr. Whitmore informed the Board that the state must complete a consolidated state application. [Attachment 7, A Segment of the Federal Register on the Required Contents of the Consolidated State Application] Mr. Fisher stated he was concerned about the goal of having all students graduate from high school and how we would accomplish that goal. Ms. Hammer asked how highly qualified teachers would be defined. Mr. Whitmore replied that we are awaiting further guidance from the federal government on that issue.

Mrs. Joseph stated that another issue is the data needed for the core indicators. She asked if the state plan would include all the required data. Mr. Whitmore responded that some of the data is already collected, but some data is not currently collected. We will have to develop data collection processes. President Hastings asked what flexibility the state has with performance indicators. Mr. Whitmore replied that he does not think we have flexibility.

Mrs. Joseph announced that California has two representatives on the federal negotiated rulemaking panel, Ms. Belisle and Arturo Abarca. She noted that the Department does not have much time to respond to the federal request, but we have lots of data. We need to start out right and well to avoid problems in the future. Superintendent Eastin stated she hired the smartest, best person she knew, Mr. Whitmore, to do this work. If the Board feels it is being jammed, it is and we are too. She stated that we can only promise we will do the best work possible. Mr. Whitmore advised that between now and

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the April 2002 meeting he would share drafts of the state plan with the Board's staff.

ITEM 17	Appointments to the Child Nutrition Advisory Council.	ACTION
ITEM 18	Assignment of Numbers for Charter School Petitions.	ACTION
ITEM 19	Approval of Providers of Professional Development in Mathematics (AB 1331).	ACTION
ITEM 20	High-Tech High School Program.	ACTION
ITEM 24	Approval of 2001-2002 Consolidated Applications	ACTION

[Attachment 8, Memo on Appointments to the Child Nutrition Advisory Council]

- ACTION: Ms. Hammer moved that the State Board approve the staff recommendations regarding Items 17, 18, 19, 20, and 24. Mr. Abernethy seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent member, Ms. Tacheny was not present when the vote was taken.

ITEM 21	Proposed Amendment to Title 5, CCR, Regulations Relating to Educational Interpreter Standards.	INFORMATION ACTION
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Nancy Grosz Sager, State Special Schools Division, reported that the Department had worked with stakeholders, including SELPAs and the California School Employees Association, to develop the regulations.

The following individual addressed the Board:

John Saylor, Association of California School Administrators and State SELPA

Ms. Sager noted the regulations require that educational interpreters for deaf and hard of hearing pupils in California schools be certified by the Registry of Interpreters for the Deaf (RI) or an equivalent organization by January 2007.

In response to the speaker's comments, Mr. Jenkins asked what alternative certification could be used. He stated that he hopes that some alternative suggestions will be made clear. Ms. Sager replied that there are no other national or state certifications. The Department has been working with the California Community College system to get a system up and running. Ms. Hammer commented that the speaker raised important issues that she would like to hear more about during the public hearing.

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- **ACTION:** Mr. Jenkins moved that the State Board approve the Notice of Proposed Rulemaking in order to begin the formal process of consideration of the proposed regulations in accordance with the Administrative Procedure Act. Mr. Fisher seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent member, Ms. Goncalves and Ms. Tacheny were not present when the vote was taken.

ITEM 22	Adoption of Permanent English Learner Regulations.	INFORMATION ACTION
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Jan Mayer, Language Policy and Leadership Office, reported that the Department received six written comments, none of which dealt with the new section that was sent out in February for the 15-day public review period. Ms. Mayer reported on the comments received. She informed the Board that the Department had translated the regulations and public notice into Spanish.

Ms. Belisle drew the Board’s attention to three recommended changes in the new version of the proposed regulations. [Attachment 9, English Learner Regulations] Mr. Abernethy asked if the goal is that children will reach English-language proficiency and no longer need services, why would we not require that students be placed in an English-language classroom for 30 days each year. Ms. Belisle responded that the 30-day language in the statute is ambiguous and may be interpreted either way. President Hastings noted that Ms. Belisle had provided a legal response but he heard Mr. Abernethy ask a policy question. The parent could have the child placed in an English-language classroom if the parent wanted that placement.

Mr. Mockler noted that the first year a student attends California schools, we do not know much about the student’s education needs. It is appropriate and required that the student be placed in an English-language classroom. In subsequent years, we know more about the student’s needs. Assigning a student for 30 days in an English-language classroom in subsequent years does not make sense educationally if the parent has requested and received a waiver for that year. The 30-day assessment is solely to determine if the children has special needs and that determination will already have been made. Mr. Abernethy stated that he believes that students make more progress toward English-language proficiency in English-language classrooms.

Mr. Fisher noted that he has not seen any statistics about how long children stay in the alternative programs. President Hastings replied that it varies throughout the state but these alternative programs are usually multiple year programs.

Mr. Mockler commented that the new proposed regulations clarify that parents have to request the waiver and initiate the waiver request.

President Hastings called for public comment. He informed the audience that a translator was available.

The following individuals addressed the Board:

Ron Unz, Proponent of Proposition 227  
Mary Hernandez, META

Francisca Buso, Padres Latinos  
Patricia Morales, Padres

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Curtis Washington, CTA  
 Francesco Estrada, MALDEF  
 Mara Iaconi, CABA  
 Denis O’Leary, LULAC  
 Gerardo Deguzman, CAL Association of Parents  
 for Bilingual Education  
 Joaquina Gamey, Padre  
 Victoria Hernandez, Padre  
 Irma Ramirez, Padre  
 Yolanda Gomez, Padre

Gabriel Medel, Parents for Unity  
 Alfonso Santos, parent  
 Mari Lueyda, Californians Together  
 Martha Zargosa Diaz, CABA  
 Miguel Bustos, California Latino Civil Rights  
 Network  
 Ismail Avilez, Coalicion Unidos por la Educacion  
 de Nuestros Ninos  
 Lori Santos, parent  
 Holly, Jacobson, CSBA

President Hastings remarked that these regulations properly respect the strong role of parental choice in the context of the law. These regulations strengthen the role of parental choice. Ms. Goncalves asked that the Board’s intent be translated into Spanish for distribution. Mr. Mockler replied that the Board staff would work with the Department staff on this matter.

Ms. Hammer stated that it is important for the speakers to know that the Board made changes that address some of their concerns. She asked about a statewide standard for reclassification. Ms. Belisle responded that the section 11303(d) language in the regulations is a commitment by the Board to establish an empirically established range of performance in basic English and language arts skills as required by *Education Code* 313(d)(4). The data for this empirically established range of performance requires data from CELDT, which was just given this past fall.

Mr. Mockler clarified that there is no single measure for reclassification and that current regulations require multiple criteria for reclassification.

- ACTION: Mr. Nuñez moved that the State Board approve amendments to the proposed regulations as presented by staff for a 15-day period of public consideration in accordance with the Administrative Procedure Act. Ms. Hammer seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 23	Legislative Update.	INFORMATION ACTION
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Erika Hoffman, Government Affairs Office, gave a brief report on bills that had been introduced.  
 [Attachment 10, Legislative Item]

Ms. Hoffman reported that the vehicle for the AB 961 clean up is SB 508. Mr. Mockler reminded the Board that AB 961 had passed through the legislature and been signed by Governor Davis last year. AB 961 provided \$200 million for low achieving schools. However, there are technical issues with the bill that need to be resolved. The Department and the Board have statutory deadlines that must be met, so we will have to muddle through until the technical problems are addressed.

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Judy Pinegar, Waiver Office, reported that she is getting calls from the districts asking if they need a waiver.

ITEM 25	Waiver Guidelines for <i>Education Code</i> Section 52522, the Adult Education Innovation and Alternative Instruction Delivery Program: Percentage of Block Entitlement.	ACTION
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Ms. Pinegar introduced the item. She noted that the policy was presented to the Board for information at the February meeting.

The following individual addressed the Board:  
Peggy Barber, Los Angeles USD

- ACTION: Ms. Tacheny moved that the State Board approve the waiver guidelines in accordance with the recommendations of CDE staff. Mr. Jenkins seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 26	REVISED Waiver Guidelines for Schiff-Bustamante Standards-Based Instructional Materials Program: Modified to ADD Exception for Science.	INFORMATION
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Ms. Pinegar noted that in December 2001, the Board postponed the follow up adoption for science from 2002 to 2003. These proposed guidelines are modeled after the Board's exception for math.

President Hastings remarked that this is a huge slippery slope. In the case of Everyday Math, the materials were close to meeting the adoption criteria. This is not the case for science. This exception policy would weaken the adoption process.

Mr. Abernethy stated that he believes these guidelines would negate the science framework that the Board just approved. We would go back to sandbox science. Ms. Hammer clarified her opinion that this policy is similar to the math exception policy. Mrs. Joseph disagreed. First, we have no STAR tests to determine how well the district is doing in science in K-8, but we do have STAR tests for 2-8 in math. Without tests in science, there is no achievement data on which to base decisions. Second, this policy calls for a review by the Department staff and an unidentified content person. This is not consistent with math, which requires the Curriculum Commission to do the review. This proposed exception knocks out the adoption process. Ms. Tacheny noted that when she read the proposed policy she was also concerned that the materials would not be reviewed by the Curriculum Commission. Ms. Tacheny stated that she was not sure why we were even considering this exception policy.

President Hastings said that we need to clarify that math and science are different.. Mr. Mockler noted that what the Board waived in the math exception was the Schiff-Bustamante funding statute. Schiff-Bustamante does not exist any longer. Governor Davis' proposal allows districts to purchase materials that are not adopted provided that they have purchased adopted materials in the core subjects. Districts can currently petition the Board to buy these materials. Mrs. Joseph said that in the adoption process

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there are usually over 100 people involved in making recommendations. Mr. Abernethy suggested that the Board reject these guidelines.

The following individual addressed the Board:  
Ken Johnson, Los Angeles USD

**WAIVERS, CONSENT, PROPOSED CONSENT, AND NONCONSENT**

**CONSENT WAIVERS**

**INSTRUCTIONAL TIME PENALTY**

ITEM WC-1	Request by Central Union High School District to waive <i>Education Code</i> Section 46201 (a) and (c), the full longer-day instructional time penalty for the 1999-00 fiscal year for Southwest High School. CDSIS-67-4-2001 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM WC-2	Request by Santa Cruz City Schools to waive <i>Education Code</i> Section 46201 (a) and (c), the full longer-day instructional time penalty for the 2000-01 fiscal year for Soquel High School CDSIS-56-12-2001 (Recommended for APPROVAL WITH CONDITIONS)	ACTION

**INSTRUCTIONAL MATERIALS SUFFICIENCY (Audit Findings)**

ITEM WC-3	Request by eight districts for a retroactive waiver of <i>Education Code</i> Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. These districts have an audit finding for the 1999-2000 fiscal year that they either 1) failed to hold the public hearing, or 2) failed to properly notice (10 days) the public hearing, and/or 3) failed to post the notice in the required three public places. (SEE ATTACHED LIST) (Recommended for APPROVAL)	ACTION
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**NONPUBLIC SCHOOL/AGENCY (Annual renewal application timeline)**

ITEM WC-4	Request by Contra Costa SELPA/Bay Area Consortium to waive <i>Education Code</i> (EC) Section 56366.1(g), the August 1 through October 31 timeline requirement on annual certification renewals. La Cheim School-Richmond; La Cheim School-Oakland; La Cheim School-Pleasant Hill. CDSIS-23-12-2001 (Recommended for APPROVAL)	ACTION
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ITEM WC-5	Request by El Dorado County Office of Education to waive <i>Education Code</i> (EC) Section 56366.1(g), the August 1 through October 31 timeline requirement on annual certification renewals. Briar Oaks Child & Adolescent Treatment Center. CDSIS-32-12-2001 (Recommended for APPROVAL)	ACTION
ITEM WC-6	Request by Tri-City SELPA to waive <i>Education Code</i> (EC) Section 56366.1(g), the August 1 through October 31 timeline requirement on annual certification renewals. Los Angeles Speech & Therapy Center, Inc. CDSIS-33-12-2001 (Recommended for APPROVAL)	ACTION
ITEM WC-7	Request by Escondido Union High School District to waive <i>Education Code</i> (EC) Section 56366.1(g), the August 1 through October 31 timeline requirement on annual certification renewals. Palomar (NPA) CDSIS-38-12-2001 (Recommended for APPROVAL)	ACTION
ITEM WC-8	Request by North Orange County SELPA to waive <i>Education Code</i> (EC) Section 56366.1(g), the August 1 through October 31 timeline requirement on annual certification renewals. The Rehabilitation Institute (NPA) CDSIS-47-12-2001 (Recommended for APPROVAL)	ACTION
ITEM WC-9	Request by Escondido Union High School District to waive <i>Education Code</i> (EC) Section 56366.1(g), the August 1 through October 31 timeline requirement on annual certification renewals. Summerhill School, Inc. (NPS) CDSIS-51-12-2001 (Recommended for APPROVAL)	ACTION
ITEM WC-10	Request by San Diego City Schools to waive <i>Education Code</i> (EC) Section 56366.1(g), the August 1 through October 31 timeline requirement on annual certification renewals. In Care Health Services (NPA) CDSIS-1-2-2002 (Recommended for APPROVAL)	ACTION

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ITEM WC-11	Request by West Contra Costa Unified School District to waive <i>Education Code</i> Section 56366.1(g), the August 1 through October 31 timeline requirement on annual certification renewals. A Better Chance School (NPS). CDSIS-48-12-2001 (Recommended for APPROVAL)	ACTION
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ITEM WC-12	Request by San Francisco Unified School District/SELPA to waive <i>Education Code</i> Section 56366.1(g), the August 1 through October 31 timeline requirement on annual certification renewals. Walden Academy. CDSIS-61-12-2001 (Recommended for APPROVAL)	ACTION
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ITEM WC-13	Request by Upper Solano County SELPA, to waive <i>Education Code</i> Section 56366.1(g), requiring nonpublic schools and agencies to submit an annual renewal application August 1 through October 31 of each year. Harvest Valley School (NPA). CDSIS-50-12-2001 (Recommended for APPROVAL)	ACTION
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ITEM WC-14	Request by East San Gabriel Valley SELPA to waive <i>Education Code</i> Section 56366.1(g), the August 1 through October 31 timeline requirement on annual certification renewals. Quest Academy, Inc. CDSIS-2-1-2002 (Recommended for APPROVAL)	ACTION
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REGIONAL OCCUPATIONAL PROGRAM – UNDER 16 YEARS

ITEM WC-15	Request by Solano County Office of Education to waive <i>Education Code</i> Section 52314.6(a), regarding the 3% limit enrollment of students under the age of 16, in the Regional Occupational Program (ROP). CDSIS-19-12-2001 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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STATE MEAL MANDATE (Saturday School Session)

ITEM WC-16	Request by Janesville Union School District to waive <i>Education Code</i> Section 49550, the State Meal Mandate during the Saturday School Session. CDSIS-15-1-2002 (Recommended for APPROVAL) E.C. Section 33051(c) will apply	ACTION
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President Hastings noted the following corrections to the Consent Waivers:

- WC-3: The correct waiver number for Mt. Pleasant School District is CDSIS-11-1-2001.
- WC-10: The correct waiver number is CDSIS-1-1-2002.
- WC-13: This waiver should have been recommended for “approval” and not “approval with conditions.”
- WC-15: This waiver should have read: Recommended for approval with the following conditions: 1) All SBE waiver guidelines must be adhered to, 2) age 16 enrollment must be limited to 10 percent of ADA funded in the prior year Annual Apportionment, and 3) E.C. 33051(C) will apply.

President Hastings asked for a motion to approve the consent waivers with the noted corrections.

- ACTION: Mr. Nuñez moved that the State Board approve the requests in Items WC-1 through WC-16 in accordance with the recommendations of CDE staff, noting (1) conditions apply to the approval of the requests in Items WC-1, WC-2, and WC-15; (2) the conditions that apply to the Item WC-15 (inadvertently left out of the agenda item) are that all State Board waiver guidelines must be adhered to and age 16 enrollment must be limited to 10 percent of the ADA funded in the prior year Annual Apportionment; (3) the provisions of Education Code section 33051(c) apply to the requests in Items WC-15 and WC-16; (4) a correction in the waiver number in Item WC-3 for the Mt. Pleasant Elementary School District, as well as the amounts of penalties applicable to the requests included in Item WC-3; (5) a correction in the waiver number in Item WC-10; and (6) no conditions are applicable to approval of the request in Item WC-13 (even though the cover sheet inadvertently indicated that conditions were to apply). Mrs. Ichinaga seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent member, Mrs. Joseph was not present when the vote was taken.

**PROPOSED CONSENT WAIVERS (W-3, W-4, W-6 through W-11)**  
COMMUNITY DAY SCHOOL

ITEM W-3	Request by Mono County Office of Education for a waiver of Education Code Section 48916.1(d) relating to county community school serving K-6 students with 7-12 students in a combined program limited to 6-12. CDSIS-1-12-2001 (Recommended for APPROVAL WITH CONDITION) E.C. 33051(c) will apply	ACTION
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DISTANCE LEARNING PROGRAM – ADULT EDUCATION

ITEM W-4	Request by Torrance Unified School District to waive <i>Education Code</i> Section 52522(b) to increase their Adult Education state block entitlement of 5 percent to 7 percent for implementation of approved programs (Adult Innovation and Alternative Instructional Delivery Program). CDSIS-11-11-2001 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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INSTRUCTIONAL MATERIALS SUFFICIENCY (Audit Findings)

ITEM W-6	Ravenswood City School District requests a retroactive waiver of 60119 regarding Annual Public Hearing on the availability of textbooks and instructional materials. This district has an audit finding for the 1999-2000 fiscal year, they failed to hold a public hearing. CDSIS-10-2-2002 (Recommended for APPROVAL WITH CONDITION)	ACTION
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MATHEMATICS PROFESSIONAL DEVELOPMENT

ITEM W-7	Request by six districts for a waiver of <i>Education Code</i> Section 44721(a) to allow use of AB 1331 Grant funds for per diem and release time for teacher training in mathematics instruction. CDSIS-5-2-2002 Fresno County Office of Education Consortium CDSIS-54-1-2002 Lodi Unified School District CDSIS-24-1-2002 Raisin City Elementary School District CDSIS-2-2-2002 Santa Cruz County Office of Education CDSIS-44-1-2002 Santa Mateo Union High School District CDSIS-21-1-2002 Upland Unified School District (Recommended for APPROVAL)	ACTION
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OUT-OF-STATE TRAVEL (EAST Technology Grants)

ITEM W-8	Request by fifteen districts to waive <i>Education Code</i> Section 35330(d) to allow Out-of-State Travel for students participating in the EAST Technology Grants. CDSIS-19-1-2002 – Alpine County Unified School District CDSIS-15-2-2002 – Apple Valley Unified School District CDSIS-29-1-2002 – Eastern Sierra Unified School District CDSIS-11-2-2002 – Fortuna Union High School CDSIS-34-1-2002 – Julian Union High School District CDSIS-30-1-2002 – Lassen Union High School District CDSIS-53-1-2002 – Middletown Unified School District CDSIS- 9-2-2002 – Northern Humboldt Union High School Dist. CDSIS-22-1-2002 – Placer Union High School District CDSIS-14-1-2002 – Plumas Unified School District CDSIS-10-1-2002 – Stockton Unified School District CDSIS-7-2-2002 – Ukiah Unified School District CDSIS-46-1-2002 – Upland Unified School District CDSIS-52-1-2002 – Val Verde Unified School District CDSIS-11-1-2002 – Walnut Valley Unified School District (Recommended for APPROVAL)	ACTION
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PURCHASE OF PERMANENT FACILITIES

ITEM W-9	Request by Caruthers Unified School District to waive <i>Education Code</i> Section 8278.3 to allow for the purchase of permanent child care facilities instead of the lease of relocatable facilities from the state as provided by that section. CDSIS-16-10-2001 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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SB 1882 STAFF DEVELOPMENT FUNDS

ITEM W-10	Request by Santa Clara Unified School District to renew a waiver of <i>Education Code</i> Section 44671(c) to coordinate the use of SB 1882 Staff Development funds to one comprehensive high school (Wilcox) and one alternative high school (Wilson) that do not generate these funds. CDSIS-32-1-2002 (Recommended for APPROVAL)	ACTION
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SCHIFF-BUSTAMANTE

ITEM W-11	General waiver request of <i>Education Code</i> Sections 60450(b) and 60451(b) Schiff-Bustamante Standards-Based Instructional Materials Program by Hueneme School District to purchase nonadopted Instructional Resources (Houghton Mifflin Mathematics, Grade 6) using Schiff-Bustamante funds. CDSIS-18-1-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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Ms. Pinegar informed the Board that Department and Board staffs concurred on the recommendations for W-3, W-4, W-6, W-7, W-8, W-9, W-10, and W-11. She reported that there was a correction on one of the proposed consent waivers: the title of waiver W-3 should be County Day School, not Community Day School.

- ACTION: Mr. Nuñez moved that the State Board approve the requests in Items W-3, W-4, W-6, W-7, W-8, W-9, W-10, and W-11 in accordance with the recommendations of CDE staff, noting (1) conditions apply to the approvals of requests in Items W-3, W-4, W-6, W-9, and W-11; (2) a technical correction to the title of Item W-3 as it appears in the agenda; and (3) supplemental materials were distributed pertaining to Items W-4 and W-6. Mr. Jenkins seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent member, Mrs. Joseph was not present when the vote was taken.

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**NONCONSENT WAIVERS**

ACADEMIC PERFORMANCE INDEX (pupil testing irregularities)

ITEM W-1	Request by Novato Unified School District (NUSD) Academic Performance Index (API) waiver. Specifically, the NUSD requests a waiver for Olive School of Title 5 CCR Section 1032(j) due to “pupil testing irregularities.” CDSIS-20-12-2001 (Recommended for DENIAL) per <i>Education Code</i> Section 33051(a)(1)	ACTION
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Ms. Pinegar introduced Pat Chladek, Policy and Evaluation Unit. Mr. Chladek noted that for the school to be eligible for awards it needed to have five points of growth on API. The Department is recommending that the Board deny this waiver for three reasons: (1) the district missed the deadline for data correction; (2) the student testing irregularity was not reported prior to the return of the students’ test materials; and (3) the Department is not convinced that removing these students’ test scores would change the entire school’s API growth.

The following individuals addressed the Board:  
Suzanne Ericson, principal, Olive School  
Martina Austin, parent

President Hastings thanked the speakers for coming before the Board. Ms. Goncalves commented that it is job of the school to make sure students understand the importance of the test.

- ACTION: Ms. Goncalves moved that the State Board deny the request in Item W-1 citing the justification set forth in *Education Code* section 33051(a)(1) in accordance with the recommendation of CDE staff. Mrs. Ichinaga seconded the motion. The motion was approved by unanimous vote of the members present.

ACADEMIC PERFORMANCE INDEX (adult testing irregularities)

ITEM W-2	Saddleback Valley Unified School District (SVUSD) Academic Performance Index (API) Waiver. Specifically, the SVUSD requests a waiver of Title 5 CCR Section 1032(f) to allow Trabuco Hills High School to be included in the API awards program for the current year (2001), in spite of “adult testing irregularities.” CDSIS-40-1-2002 (Recommended for DENIAL) per <i>Education Code</i> Section 33051(a)(1)	ACTION
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Mr. Chladek informed the Board that the test was stolen from the classroom by 10<sup>th</sup> grade students and used to develop an answer sheet that was shared with other students. There is no way of knowing how many copies were made or how many students were shown the answer sheet created by these students. On this basis, the Department is recommending denial of this waiver.

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The following individuals addressed the Board:  
Roy Gatfield, principal, Trabuco Hills High School  
Robert Pappert, teacher, Trabuco Hills High School

President Hastings asked if the district reported the theft, then why, since the adult testing irregularity penalty is very severe, did the Department classify this as an adult testing irregularity. Mr. Chladek replied that the adults in the classrooms are responsible for the security of the test. President Hastings remarked that this instance was accidental, self-reported, an honest mistake, and not like the other cases of intentional cheating by adults.

Ms. Goncalves asked if the students' test scores were included in the school's API. Mr. Gatfield replied that the test scores of the three students were not included in the API. He reported that the answer sheet was distributed to approximately 30 students, several of whom came forward to tell school staff that they had the cheat sheets.

Bill Padia, Policy and Evaluation Division, stated that the question is this: was there a violation of the test protocol. The teacher's motivation should not be part of discussion. If the waiver is denied, the district will be out of the awards for one year but still get an API.

President Hastings noted that one concern is that if we approve this waiver we could get a similar situation with the difference being that the teacher willfully allows or encourages it. Then we get into the difficulty of having to determine motivation. The Board is not a court of law.

- ACTION: Mr. Abernethy moved that the State Board approve the request in Item W-2 notwithstanding the recommendation of CDE staff. Mrs. Ichinaga seconded the motion. The motion was approved by a vote of 9-1. Mr. Jenkins voted against the motion.

EQUITY LENGTH OF TIME

ITEM W-5	Request by Baldwin Park Unified School District to waive <i>Education Code</i> Section 37202, equity length of time requirement for third through eighth grade students at Santa Fe Fundamental School and sixth grade students at Holland and Olive Middle Schools. CDSIS-34-12-2001 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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Ms. Pinegar stated that this waiver was recommended for approval and that the district was available to answer any questions the Board might have.

- ACTION: Ms. Hammer moved that the State Board approve the request in Item W-5 with conditions in accordance with the recommendation of CDE staff. Ms. Goncalves seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent member, Mr. Abernethy was not present when the vote was taken.

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ITEM 27	The 2002 Base Academic Performance Index (API): Integrating the California Standards Test (CST) in Mathematics into the API.	INFORMATION ACTION
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Mr. Padia informed the Board that the Superintendent's recommendation differs in one area from the PSAA Advisory Committee's recommendation. He introduced Ed Haertel, Co-Chair, API Subcommittee of PSAA Advisory Committee. [Attachment 11, The 2002 API: Integrating the California Standards Test in Mathematics into the API]

Mr. Hartel noted that there are five related issues to be resolved:

1. Should the CST English-language arts methodology be adopted for integrating the CST math test?
2. How should the integrated math test results be treated?
3. How should the API account for students who do not take any CST math test?
4. How should higher level test results (e.g. AP calculus) be treated?
5. How should credit be given for "early", "on time", or "late" CST math testing?

Mr. Haertel presented the PSAA Advisory Committee's recommendations. He reported that on Issue Five the PSAA Technical Design group concurs with the Superintendent's recommendation to not use the course enrollment credit approach.

President Hastings said that as he understands it, if a student is not taking a math or integrated math course, the student gets 200 API points under this PSAA Advisory Committee recommendation. He asked if the PSAA Advisory Committee could suggest a way to integrate the math tests into the API if there are no integrated math tests. Mr. Haertel replied that he was concerned about the impact on the APIs of schools with many students who take integrated math.

President Hastings asked if waiting until April for a decision would be a problem. Mr. Padia replied that the decision could wait until April. Mr. Padia noted that if the Board does not establish performance levels for the integrated math tests, they would not be able to put the CST math test in the 2002 Base API. President Hastings suggested that the motion could be to follow all of the Superintendent's recommendations but the integrated math portion.

- ACTION: Ms. Hammer moved that the State Board approve the integration of the California Standards Tests in Mathematics into the 2002 Base API in accordance with the recommendations of CDE staff, except to the extent that the recommendations involve performance standards (levels) for the California General Mathematics Standards Test and Integrated Mathematics Standards Tests, which have yet to be adopted. However, should the State Board adopt performance standards (levels) for the California General Mathematics Standards Test and Integrated Mathematics Standards Tests in time to effectuate the recommendations for the 2002 Base API, then the recommendations shall be implemented in full. Mrs. Joseph seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent member, Mr. Abernethy was not present when the vote was taken.

Mr. Padia clarified that they could put the CST math test scores for grades 2-7 in the API 2002 base if

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the Board does not set integrated math test performance standards.

ITEM 28	Determination of funding requests from charter schools pursuant to Senate Bill 740 (Chapter 892, Statutes of 2001), specifically Education Code sections 47612.5 and 47634.2.	ACTION
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Jan Sterling, School Fiscal Services Division, stated that SB 740 calls for the Board to act on determination of funding requests. The decision is to fund a charter school at either 100 percent or 95 percent. Ms. Sterling thanked Eileen Cubanski and her staff and Mr. Geeting for an excellent job in working to bring the recommendations to the Board.

President Hastings said that he wanted to echo Ms. Sterling's thanks. A phenomenal amount of work has been done by the Advisory Committee, the Department, and the Board's staff.

Advisory Commission on Charter Schools Chair Mark Kushner thanked Mr. Geeting for his outstanding support of the Advisory Committee. Mr. Kushner stated that SB 740 is working. He thanked the other Advisory Committee members for their work in reviewing the funding requests. Mr. Kushner noted that the permanent regulations for SB 740 are up in April. He informed the Board that the Advisory Committee wants to get involved in the state-approved charters and will also be looking at the revocation process. Mr. Kushner stated that there are two tests for funding determination and that the Advisory Committee is focused on whether funds are used for instructional purposes. [Attachment 12, Revised Supplemental #9]

Superintendent Eastin expressed concern about the potential for conflicts of interest and noted that some of the schools' funding packets did not include information about potential conflicts. She stated that she would like recommendations for legislation or other solutions to this potential problem. Mr. Fisher remarked that there is a need for more oversight of charter schools, a better way to hold charter schools accountable.

The following individuals addressed the Board:  
Dave Patterson, California Network of Educational Charters  
Chuck Gehrke, Excelsior Charter School  
Tom Changnon, Keyes to Learning Charter School

Ms. Hammer commented that she appreciates the good work of the Advisory Committee, the Department, and the Board's staff.

- ACTION: Ms. Hammer moved that the State Board (1) approve the recommendations of the Advisory Commission on Charter Schools and CDE staff (which are the same\*) with respect to the determination of funding requests submitted by charter schools pursuant to Education Code sections 47612.5 and 47634.2 and which were substantially complete by February 13, 2002, within the meaning of Education Code section 47634.2(b)(2), with 46 determinations of funding being approved at the 95 percent level and 44 determinations of funding being approved at the 100 percent level; (2) approve the reasons for reduction of determination of funding requests

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from the 100 percent level to the 95 percent level, as necessary, as reflected in the supplemental agenda materials; and (3) approve a finding that the determination of funding requests submitted by certain charter schools were not substantially complete by February 13, 2002, within the meaning of Education Code section 47634.2(b)(2), as recommended by CDE staff. [\*Although the supplemental agenda materials indicated differences between the recommendations of the Advisory Commission and CDE staff on certain requests, it was reported at the meeting that the CDE staff recommendations had been revised to reflect the Advisory Commission’s.] Ms. Goncalves seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent member, Mr. Abernethy, Mrs. Ichinaga, Mr. Jenkins, and Ms. Tacheny were not present when the vote was taken.

**APPROVED AT THE 95 PERCENT LEVEL\*:**

<u>CHARTER SCHOOL NAME</u> .....	<u>CHARTER SCHOOL NUMBER</u>
1. Alternative Educational Learning Center (Richmond) .....	361
2. Bitney Springs Charter School (Nevada City).....	177
3. California Charter Academy – Orange .....	297
4. California Charter Academy – Oro Grande .....	387
5. California Charter Academy – Snowline.....	377
6. California Charter Academy (Victorville).....	262
7. Camptonville Academy, Inc., The (Grass Valley).....	165
8. Charter Oak (Visalia).....	51
9. Choices 2000 Online (Riverside County).....	61
10. Classical Academy, The (Escondido).....	199
11. Dehesa Charter School (Chula Vista).....	419
12. Desert Sands Charter School (Lancaster).....	411
13. Eagles Peak (Placerville) .....	282
14. Elk Grove Charter School (Sacramento County).....	27
15. Excelsior Education Center (Victorville).....	74
16. Gorman Learning Center (Los Angeles County).....	285
17. Heritage Family Academy (Manteca).....	216
18. HomeSmart Kids of Knightsen (Antioch) .....	324
19. Horizon Instructional Systems (Lincoln).....	15
20. Julian Charter School (San Diego County).....	267
21. Keyes to Learning (Stanislaus County) .....	85
22. Liberty Family Academy (Monterey County) .....	160
23. Mattole Valley Charter School (Humboldt County).....	159
24. Mid Valley Alternative charter School (Hanford).....	88
25. Modoc Charter School .....	279
26. New Hope Charter School (Lodi).....	286
27. New Millennium Institute of Education (Fresno).....	163
28. Opportunities for Learning Charter School – Baldwin Park .....	402
29. Opportunities for Learning Charter School – Hacienda La Puente .....	188
30. Opportunities for Learning Charter School – Santa Clarita.....	214

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31. Options for Youth – Burbank Charter School .....	130
32. Options for Youth – Mt. Shasta Charter School .....	139
33. Options for Youth – San Gabriel Charter School .....	117
34. Options for Youth – San Juan Charter School.....	217
35. Options for Youth – Upland Charter School .....	105
36. Options for Youth – Victor Valley Charter School .....	13
37. Pacific View Charter School (Oceanside) .....	247
38. Premiere Education Charter School (Long Beach).....	316
39. River Valley Charter School (San Diego County).....	120
40. Sanger Hallmark Charter School (Fresno County).....	257
41. Sierra Charter School (Mono County/Fresno County).....	136
42. Visions in Education Charter School (San Juan Unified).....	248
43. West Park Charter Academy (Fresno County) .....	44
44. West Sonoma Charter School .....	273
45. Westwood Charter School (Lassen).....	399
46. Yuba County Career Preparatory Charter.....	92

[\* As necessary, the specific reasons for a reduction of a request from the 100 percent level to the 95 percent level were approved by the State Board in accordance with the recommendations of the Advisory Commission on Charter Schools and CDE staff, as reflected in the supplemental agenda materials.]

**APPROVED AT THE 100 PERCENT LEVEL:**

<u>CHARTER SCHOOL NAME</u> .....	<u>CHARTER SCHOOL NUMBER</u>
1. Academy for Career Education (Yuba County).....	183
2. Anderson Valley Charter Network (Mendocino) .....	254
3. Antelope View Home Charter (Sacramento County) .....	344
4. Castle Rock Charter School (Del Norte County).....	358
5. Challenge Charter High School (Oroville) .....	126
6. Challenge Home School Charter (Mt. Shasta).....	138
7. Charter Alternatives Academy (Visalia).....	251
8. Charter Community School, Home Study Academy and Extended Day (Placerville).....	5
9. Charter Home School Academy (Visalia) .....	250
10. Charter School of San Diego .....	28
11. Choices (San Juan Unified) .....	275
12. Chrysalis Charter School (Redding) .....	108
13. Circle of Independent Learning (Fremont) .....	152
14. Community Learning Center (Kern County).....	77
15. Denair Charter School.....	357
16. Eleanor Roosevelt Community Learning Center (Exeter).....	395
17. Fresno Prep Academy .....	196
18. Golden Valley Charter School (Placerville) .....	356
19. Hickman Charter School (Stanislaus County).....	D-4

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20. Kingsburg Community Charter Extension (Fresno County) .....	D-2
21. Learning Community Charter School (Butte County).....	110
22. Long Valley Charter School (Lassen County).....	320
23. Lubeles Academy (Redding) .....	272
24. Mountain Home School Charter (Madera County) .....	63
25. Muir Charter School (Nevada City).....	255
26. Natomas Charter School (Sacramento County).....	19
27. Nevada City Home Study Charter .....	69
28. New Jerusalem Charter School (Tracy).....	171
29. Nexus Learning Community (Santa Rosa) .....	346
30. Oakdale Home Study .....	103
31. one.Charter School (San Joaquin County).....	423
32. Orchard View Charter School (Sebastopol) .....	310
33. Pacific Coast Charter School (Watsonville) .....	170
34. Piner-Olivet Charter School (Santa Rosa) .....	98
35. Prosser Creek Charter School (Truckee) .....	144
36. San Lorenzo Valley Charter School .....	25
37. School of Unlimited Learning (Fresno County) .....	149
38. Shasta Secondary Home School .....	256
39. Stellar Charter School of Technology and Home Study (Redding) .....	223
40. Twin Ridges Home Study Charter (Nevada County) .....	26
41. Valley Oaks Charter School (Kern County).....	332
42. WEB DuBois Public Charter (Fresno County).....	270
43. Wheatland Charter Academy (Yuba County).....	370
44. Wonder to Wisdom (Redding).....	424

**APPROVED FINDING THAT THE REQUEST FROM EACH OF THE FOLLOWING CHARTER SCHOOLS WAS NOT SUBSTANTIALLY COMPLETE BY FEBRUARY 13, 2002:**

<u>CHARTER SCHOOL NAME</u> .....	<u>CHARTER SCHOOL NUMBER</u>
1. Academy for Academic Excellence.....	127
2. Audeo Charter School.....	406
3. Buckingham Charter School.....	56
4. Charter 101 Elementary School.....	101
5. Cornerstone Academy.....	311
6. Delta Charter High School.....	393
7. Escondido Charter High School.....	109
8. Fort Ross Charter School.....	273
9. Gold Rush Home Study Charter .....	392
10. Greater San Diego Academy .....	261
11. Home Tech.....	67
12. Lammersville .....	203
13. La Vida Independent Study Charter School .....	375
14. Learning With A Purpose .....	300

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15. Monterey County Home Charter School .....327  
 16. Olive Grove Charter School.....421  
 17. One Step UP.....379  
 18. Pacific View.....277  
 19. Paradise Charter Network.....155  
 20. Plumas Charter.....146  
 21. Santa Barbara Elementary School .....20  
 22. Santa Barbara Middle School .....179  
 23. Sherman Oaks .....304  
 24. Summit Charter School.....279  
 25. Vantage Point Charter.....24

ITEM 29	Response to 2001-02 Student Advisory Board on Education (SABE) Recommendations.	INFORMATION ACTION
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Mr. Geeting suggested that the Board direct the Board’s staff to develop a letter to formally respond to the Student Advisory Board on Education’s (SABE) five recommendations.

Commenting on the memo in the agenda materials, Ms. Goncalves noted that it is clear that the students’ first and second recommendations, related to teacher recruitment and low-performing schools, are already priorities. She stated perhaps it would be useful to have students involved in the Coordinated Compliance Review, which was the students’ third recommendation. The fourth recommendation was about cell phones. Ms. Goncalves stated that she would like the Board to support legislation, SB 1253, to allow students to have cell phones at schools. She informed the Board that she had related to the state’s student leaders the Board’s efforts to improve communication about STAR to parents and students, which was the fifth recommendation from the students.

Superintendent Eastin stated that she supports SB 1253.

President Hastings asked that Ms. Hoffman bring the legislation on cell phone to the Board for discussion in April and asked the Board’s staff to prepare a letter to SABE.

- **ACTION:** Ms. Goncalves moved that (1) the State Board President be authorized to prepare a formal response to the 2001-02 SABE recommendations based upon the staff memorandum and her comments presented at the meeting and (2) the State Board request a presentation from CDE staff on SB 1253 (Figueroa) at the next State Board meeting. Mrs. Joseph seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent member, Mr. Abernethy, Mrs. Ichinaga, Mr. Jenkins, and Ms. Tacheny were not present when the vote was taken.

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ITEM 30	Appointment to the Curriculum Development and Supplemental Materials Commission.	INFORMATION ACTION
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Mrs. Joseph stated that a replacement was needed to fill the vacancy created by the resignation of an outstanding Commissioner, Janet Philibosian. [Attachment 13, Memo on Appointment to Curriculum Development and Supplemental Materials Commission] Mrs. Joseph informed the Board that the last time the Screening Committee had met, the Committee agreed they would recommend Julie Maravilla for the next appointment. The Committee is recommending Ms. Maravilla to complete the unexpired term through December 2002 and serve a full term starting January 2003.

- **ACTION:** Mrs. Joseph moved that the State Board (1) effective immediately, appoint Julie Maravilla to fill out the remainder of the existing term on the Curriculum Development and Supplemental Materials Commission (from which Janet Philibosian has resigned), which ends December 31, 2002; and (2) effective January 1, 2003, reappoint Julie Maravilla to a full term on the Curriculum Development and Supplemental Materials Commission, ending December 31, 2006. Ms. Hammer seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent member, Mr. Abernethy, Mrs. Ichinaga, Mr. Jenkins, and Ms. Tacheny were not present when the vote was taken.

Mr. Fisher asked Superintendent Eastin about the delay in the submission of regulations approved by the Board to the Office of Administrative Law (OAL). He noted that the delay pushes back action on regulations for a month. Superintendent Eastin replied that all she could do is promise that they will do everything they can.

Mrs. Joseph asked for a process to allow the Board members to review the questions on the tests submitted for the STAR contract designation.

**Adjournment:** President Hastings adjourned the meeting at 3:08 p.m.

Respectfully submitted,  
Deborah Franklin  
Education Policy Consultant