

State of California

Department of Education

INFORMATION MEMORANDUM

DATE: November 19, 2003

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: SUE STICKEL
Deputy Superintendent of Curriculum & Instruction

SUBJECT: Proposed Amendments to California Code of Regulations Title 5, Education, Division 1, Chapter 2, Subchapter 3, Article 4. Vision Screening

At the January 2004 meeting, the State Board of Education may be asked to take action on approving the regulations to go forward for a 45-day public comment. However, an Executive Order has been issued by the Governor calling for a temporary suspension of consideration of non-emergency regulations. The effect of the Executive Order on these proposed changes in existing regulations is under study.

This packet contains: 1) the Notice of Proposed Rulemaking pertaining to the proposed amended regulations; 2) the Initial Statement of Reasons pertaining to the proposed amended regulations; 3) proposed amendments to the California Code of Regulations Title 5, Education, Division 1, Chapter 2, Subchapter 3, Article 4. Vision Screening; and 4) the Economic and Fiscal Impact Analysis.

The purpose of the proposed amended regulations is to provide clarification for implementing Education Code sections 49452, 49455, and 49456. The current regulations were adopted between 1973 and 1977. Since that time, technology has changed the way vision screening is done, and more recent legislation has changed who may provide screening in the schools. Specifically, the proposed amended regulations:

- * Clarify who may administer vision tests to pupils;
- * Replace a brand name vision screening product with a generic term (thus offering the LEAs greater opportunities to be reimbursed for vision screening services through the LEA Medi-Cal Billing Option); and
- * Suggest when and how parents or guardians should be notified about the need for a professional vision examination.

CALIFORNIA STATE BOARD OF EDUCATION

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



TITLE 5. EDUCATION

CALIFORNIA SUPERINTENDENT OF PUBLIC INSTRUCTION

NOTICE OF PROPOSED RULEMAKING

Vision Screening

[Notice published _____, 2004]

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

PUBLIC HEARING

Program staff will hold a public hearing beginning at **10:00 a.m. on _____, 2004**, at 1430 N Street, Room _____, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Superintendent requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on _____, 2004**. The State Board will consider only written comments received by the Regulations Adoption Coordinator by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

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

AUTHORITY AND REFERENCE

Authority: Section 49452, *Education Code*.

Reference: Sections 49452 and 44877, *Education Code*.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The State Board proposes to amend Sections 591, 592, 593, and 594 in Title 5 of the *California Code of Regulations* (CCR). These sections concern the screening of pupil vision in the public schools.

The purpose of the proposed amended regulations is to provide clarification for implementing *Education Code* sections 49452, 49455, and 49456. Specifically, the proposed amended regulations clarify who may administer vision tests to pupils, what types of tests may be performed, and when and how parents or guardians should be notified about the need for a professional vision examination.

Education Code sections 49452, 49455, and 49456 provide for vision screening in selected grades, basic components of the school vision testing program, and parent notification of suspected vision defects.

Section 590 as amended will replace the old name “Department of Public Health” with the current name “Department of Health Services.”

Section 591 as amended will reflect the recent change in the title of the credential authorizing service as a school nurse and clarify that the only type of nurse authorized by the *Education Code* to perform vision screening tests in the public schools is a school nurse. The amendment also adds osteopath to the list of licensed professionals who may perform school vision screening.

Section 592 as amended will reflect changes in technology and replace a brand name test with a generic term.

Section 593 as amended will replace the term “eye screening test” with the term “vision screening test” to more accurately express the type of testing performed in the schools.

Section 594 as amended will reflect changes in technology and replace a brand name test with a generic term. This amended section will also provide for the notification of the parents or guardians of pupils who do not pass the initial vision screening and follow-up reevaluations. This amended section also recommends that parents and guardians of pupils with known visual defects be contacted to discuss the pupil’s condition and appropriate ongoing care.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with *Government Code* section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

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

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Affect on small businesses: The proposed regulations will have no affect on small businesses because they only apply to local educational agencies.

CONSIDERATION OF ALTERNATIVES

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

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Linda Davis-Alldritt, Consultant
California Department of Education
School Health Connections
1430 N Street, Suite 6408
Sacramento, CA 95814
E-mail: visionregs@cde.ca.gov
Telephone: (916) 319-0284

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

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at [*Note: Invalid link removed.*].

INITIAL STATEMENT OF REASONS

SECTIONS 591 – 594.

SPECIFIC PURPOSE OF THE AMENDED REGULATIONS

The proposed amended regulations will provide clarification for implementing *Education Code* section 49452. Specifically, the regulations clarify who may administer vision tests to pupils, what types of tests may be performed, and how and when parents or guardians should be notified about the need for a professional vision examination.

NECESSITY/RATIONALE

The existing regulations were last amended in 1977. Since that time, there have been changes in vision screening techniques that are not reflected in the existing regulations. *Education Code* section 49452 requires LEAs to test the vision of each pupil enrolled in the district's schools and specifies the individuals qualified to perform vision testing. *Education Code* section 49455 specifies the frequency and basic components of the school vision testing program. The *California Code of Regulations* sections 590-596 provide guidance on vision screening; however, the language in the existing regulations limits the type of testing tool to the Snellen chart. While the Snellen chart is one type of screening tool, as technology has evolved, there are other vision screening tools now available to LEAs. The amended version of the regulations would replace the word "Snellen" with the generic term "optotype" and thereby not limit LEAs to one particular brand of screening tool or test.

The amendment to the *California Code of Regulations* section 594 provides guidance on sending written notice to the parents or guardians of pupils who do not pass the initial vision screening and follow-up reevaluation. This amendment also recommends that parents and guardians of pupils with known visual defects be contacted to discuss the pupil's condition and appropriate ongoing care.

Other amendments to the existing regulations reflect statutory changes since 1977.

Section 590. Duly Authorized Agency Defined.

The amendment reflects the change in the name of the State Department of Public Health to the State Department of Health Services.

Section 591. Employees Authorized to Give Tests.

The amendments reflect the recent change in the title of the credential authorizing service as a school nurse and clarify that the only type of nurse authorized by the *Education Code* to perform vision screening tests is a school nurse.

The amendments provide a technical change to correct the name of the agency authorized to issue teaching credentials.

Note: Authority cited: Section 49452, *Education Code*. Reference cited: Section 44877, *Education Code*

Section 592. Acceptable Course in Vision Screening.

The amendments reflect changes in technology and replace a brand name test with a generic term.

Note: Authority and Reference cited: Section 49452 *Education Code*.

Section 593. Responsibility as to Eligibility.

The suggested term “vision screening test” replaces the term “eye screening test” to more accurately express the type of testing performed in the schools.

Note: Authority and Reference cited: Section 49452, *Education Code*.

Section 594. Examination of Visual Acuity.

The amendments reflect changes in technology and replace a brand name test with a generic term.

The amendments also provide clarity and direction on follow-up referrals for known vision defects or recently identified problems.

Note: Authority and Reference cited: Section 49452, *Education Code*

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

The State Board did not rely upon any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY’S REASONS FOR REJECTING THOSE ALTERNATIVES.

This proposal is to amend out-dated regulations, not create new regulations. Therefore, the consideration of alternatives is not applicable.

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

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

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

The proposed regulations would not have a significant adverse economic impact on any business.

1 **Title 5. EDUCATION**

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

3 **Chapter 2. Pupils**

4 **Subchapter 3. Health and Safety of Pupils**

5 **Article 4. Vision Screening**

6 *Amend Sections 590 – 594 to read:*

7 **§ 590. Duly Authorized Agency Defined.**

8 “A duly authorized agency,” as used in *Education Code* ~~§~~section 49452, means a city or county
9 health department, a local health district, or the State Department of ~~Public Health~~ Services.

10 NOTE: Authority cited for Article 4: Section 33031 and 49452, *Education Code*. Issuing agency:
11 Superintendent of Public Instruction.

12 **§ 591. Employees Authorized to Give Tests.**

13 An employee of the governing board or of the county superintendent who may be required or
14 permitted to give vision tests pursuant to *Education Code* ~~§~~section 49452 to pupils enrolled in the
15 district is one of the following:

16 (a) A physician, ~~ophthalmologist~~ osteopath, optometrist, or school nurse who holds both:

17 (1) A certificate of registration from the appropriate California board or agency.

18 (2) A health and development credential, ~~or~~ a standard designated service credential with a
19 specialization in health, or a school nurse services credential.

20 Such an employee is a "qualified supervisor of health" as used in this article and in *Education*
21 *Code* ~~§~~section 49452.

22 (b) Any other employee of the school district or of the county superintendent of schools who
23 holds a teaching credential issued by the ~~State Board~~ Commission on Teacher Credentialing and
24 who has filed with the employing school district or county superintendent of schools, as the case
25 may be, one of the following documents:

26 (1) A statement from a qualified supervisor of health that the employee has satisfactorily
27 completed an acceptable course of inservice training in techniques and procedures in vision
28 screening of at least six clock hours given by the qualified supervisor of health making the statement
29 and that the employee is qualified to administer vision tests to pupils.

30 (2) A transcript from an accredited college or university evidencing that the employee has
31 successfully completed an acceptable course in vision screening of at least one semester unit.

32 (3) NOTE: Authority cited: Section 49452, *Education Code*. Reference: Section 44877,

1 Education Code.

2 **§ 592. Acceptable Course in Vision Screening.**

3 An acceptable course in vision screening is one that provides the following:

4 (a) Basic knowledge of the structure, normal development, and function of the eye and common
5 anomalies of vision and factors influencing visual performance.

6 (b) Basic knowledge of signs and symptoms suggesting eye difficulty.

7 (c) Techniques and procedures in administering ~~Snellen~~ optotype and color vision tests. Such
8 techniques and procedures shall include training in the following:

9 (1) Establishing tests rapport with pupils.

10 (2) Seating of pupil and placing of equipment.

11 (3) Providing adequate lighting conditions for the testing situation.

12 (4) Recording test results.

13 (5) Referring pupils in need of follow-up.

14 (d) Practice in administering ~~Snellen~~ optotype and color vision tests under the supervision of a
15 qualified supervisor of health.

16 NOTE: Authority cited: Section 49452, Education Code. Reference: Section 49452, Education
17 Code.

18 **§ 593. Responsibility as to Eligibility.**

19 Each school district and county superintendent of schools shall determine and be responsible for
20 the eligibility of personnel employed or permitted by the district or county superintendent of schools
21 to administer eye vision screening tests or to conduct inservice training programs in techniques and
22 procedures in administering such tests.

23 NOTE: Authority cited: Section 49452, Education Code. Reference: Section 49452, Education
24 Code.

25 **§ 594. Examination of Visual Acuity.**

26 The following definitions shall apply to terms used in Education Code ~~S~~section 49452.

27 The examination of visual acuity shall mean a test for visual acuity at the far point. This shall be
28 conducted by means of the ~~Snellen Test~~ optotype test. Conduct of the test and the testing
29 environment shall conform to procedures and settings described in the most recent edition of “A
30 Guide for Vision Testing in California Public Schools.” Test failure for the initial vision test shall
31 be defined as follows:

1 (a) For children under six years of age: Vision acuity of 20/50 or worse. The designation 20/50
2 or worse indicates the inability to identify accurately the majority of letters or symbols on the 40-
3 foot line of the test chart at a distance of 20 feet.

4 (b) For children six years of age or older: Visual acuity of 20/40 or worse. This means the
5 inability to identify the majority of letters or symbols on 30-foot line of the chart.

6 (c) For all children: A difference of visual acuity between the two eyes of two lines on the
7 ~~Snellen Chart~~ optotype chart. This means, for example, visual acuity of 20/20 in one eye and 20/40
8 in the other or 20/30 in one eye and 20/50 in the other.

9 Following failure of the initial vision acuity screening test, a reevaluation shall be accomplished
10 prior to referral for definitive professional evaluation. This reevaluation shall be done by persons
11 authorized to give tests as per Section 591(a) of this Article.

12 Once the reevaluation determines that a referral for definitive professional evaluation is
13 necessary, parents or guardians shall be notified and advised to take the pupil for a professional
14 vision evaluation. For pupils with glasses, known visual defect or known noncorrectible vision loss,
15 follow-up procedures may include counseling with the pupil and parents or guardians about the
16 pupil's vision condition and referrals for on-going professional vision care.

17 NOTE: Authority cited: Section 49452, Education Code. Reference: Section 49452, Education
18 Code.