

FINAL MINUTES
California State Board of Education
January 9-10, 2002

Thursday, January 10, 2002

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

Members Present

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

Members Absent

Robert J. Abernethy
Erika Goncalves

Closed Session

The Board met in Closed Session from 8:02 a.m. to 8:30 a.m. (See Closed Session Report below.)

Call to Order: Public Session

President Hastings called the meeting to order at 8:47 a.m.

Salute to the Flag

Ms. Hammer led the Board, staff, and audience in the Pledge of Allegiance.

Announcements/Communications

President Hastings informed the audience that Item 15 would be taken up first. Then, because the presenter is here, we will have the seminar presentation. Item 10, held over from the previous day, will be heard later in the agenda. (Item 10 was heard after Item 26.)

ITEM 15	AB 466 (Mathematics and Reading Professional Development Program) Emergency Regulations.	INFORMATION ACTION
---------	--	--------------------

Bill Vasey, Professional Development and Curriculum Support Division, noted that the statute requires regulations. The Department and Board staffs have worked together on these emergency regulations. Mr. Vasey remarked that next month there would be the more interesting AB 466 content – the proposed criteria for approval of providers. Mr. Vasey explained the suggested changes to the proposed regulations. [Attachment 10]

FINAL MINUTES
California State Board of Education
January 9-10, 2002

Mr. Mockler proposed an additional change to the regulations, the adding to 11980 (a) the words “and otherwise meets the requirements of the code” at the end of the sentence. Mr. Mockler commented that the Department and the Board staffs have worked very cooperatively to develop these proposed regulations. Ms. Esch of the Board staff has been instrumental in this work. Mr. Mockler noted that Governor Davis’s budget would be announced later in the day. This budget will show how important professional development is to Governor Davis.

Mrs. Joseph expressed concern about the term “incorporates” in 11980(a) because it seems like it could diminish the importance of professional development on the state-adopted instructional materials. Mr. Mockler replied that was the reason for his suggested amendment. Mr. Vasey said that he thinks the language will work.

- ACTION: Mr. Jenkins moved that the State Board approve the Emergency Regulations including the amendments presented by staff at the meeting. Mr. Nuñez seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Ms. Reynolds was not present when the vote was taken.

ITEM 28	Seminar Session. Strategies for Improving Academic Achievement: Experience in the Compton Unified School District.	INFORMATION
---------	--	-------------

Mr. Hill introduced Randy Ward, State Administrator, Compton Unified School District, noting the significant changes Mr. Ward has made in Compton. Fiscal control has been handed over to the district. Student achievement is on the rise. Mr. Hill congratulated Mr. Ward on the progress he has achieved, while noting that more improvement is needed.

Mr. Ward showed a video demonstrating the terrible condition of the facilities in Compton when he first came to Compton in 1996. Mr. Ward then began his presentation on “Lessons from Compton on Systemic Change: From Triage to Excellence.” Compton was the nation’s first district to be placed under state receivership for both fiscal and academic deficiency. However, Compton’s problems are not unique. Many districts have schools with terrible problems like those facing Compton in 1996. Mr. Ward noted that later on in the agenda, the Board would be acting on the Department recommendation to withhold funds. He asked that the Board remember the term “triage” when it considers that recommendation. The efforts in Compton have focused on student achievement in reading, literacy, and writing.

Mr. Ward thanked Governor Davis and the State Legislature for providing funding for an extended school year – two extra months of school in the summer. The Open Court program in language and reading has resulted in tremendous improvement in reading test scores. There has also been improvement in the SAT 9 math scores of first graders in 2001. Thirty of 34 of schools (89 percent) had growth on the Academic Performance Index and 22 schools met their growth targets. The district has ended social promotion and implemented accelerated learning programs for retained students. Other dramatic changes, such as removing all high school counselors, are making a difference. Mr. Ward highlighted some of the lessons learned in Compton that would be applicable to other districts.

FINAL MINUTES
California State Board of Education
January 9-10, 2002

President Hastings thanked Mr. Ward for his presentation. President Hastings said that the information in his presentation is just what the Board is looking for. Ms. Hammer also thanked Mr. Ward for the excellent presentation. She congratulated Mr. Ward on the changes and improvements he has made. Ms. Hammer asked about growth and the need for additional school facilities. Mr. Ward replied that parents are coming back to district. The elementary schools are just bursting. The school board is considering going out for a bond. Mr. Ward added that the district is not focusing so much on facilities that it is forgetting the main focus, student achievement. The focus is on the high schools right now.

Mrs. Joseph asked about professional development. Mr. Ward responded that professional development is essential to everything we do, especially with 60 percent non-credentialed teachers. There is a lot of literacy training, including after school and weekends. More resources have been allocated to staff development the last two years as new staff has come in. Mr. Hill noted that the Department has participated in staff development in Compton. The turnover rate of the teaching staff is a big problem and makes professional development a daunting task. Mr. Ward thanked the Department for all the help it has given him. Mr. Ward thanked his predecessor, Mr. Whitmore, who was in Compton for four months in 1996. He said that he appreciated the work Mr. Whitmore did there.

Mr. Mockler noted that Mr. Ward was able to act without the local board. He asked if that made a difference. Mr. Ward replied that it did make a big difference. There was no way that this kind of progress could have been made with the board. Certainly the lesson that speaks to the you when you look at patterns of under-performing schools is to consider the possibility of school sanctions. Mr. Hill commented that the lack of adult capacity is a huge issue. Rebuilding adult capacity is an enormous undertaking. Ms. Tacheny asked Mr. Ward what he thought were the top functions that have to be in place to turn around an underperforming school. Mr. Ward replied that it is critical to have a support system for teachers – this is everyone’s job in the district, from payroll staff to the site principal. Accountability is essential. Everyone is accountable. The accountability must be fair. Retaining good teachers is also critical. President Hastings thanked Mr. Ward for his 20 years of work in education, 11 of which have been in California, and all he has done for education during those years.

ITEM 16	Reappointment of a Member of the Child Nutrition Advisory Council.	ACTION
ITEM 17	Assignment of Numbers for Charter School Petitions.	ACTION
ITEM 18	Approval of Providers of Professional Development in Mathematics (AB 1331).	ACTION
ITEM 19	California School Information Services (CSIS) Data Dictionary Version 3.0.	ACTION
ITEM 20	Gifted and Talented Education District Budgets for 2001-2002 (LATE DISTRICTS).	ACTION

FINAL MINUTES
California State Board of Education
January 9-10, 2002

ITEM 22	High Tech High Schools: Delay Implementation of Program	ACTION
ITEM 23	Calistoga Joint USD requests approval of joint occupancy project pursuant to Education Code Section 17524 to finance the construction and installation of a portable classroom for the continued operation of the Family Center Program.	ACTION
ITEM 25	Revision to the <i>California State Plan (1999-2004) for the Title II: Workforce Investment Act, Adult Education and Family Literacy Act</i> (revised July 2001).	INFORMATION ACTION

President Hastings suggested that Items 16, 17, 18, 19, 20, 22, 23, 24 and 25 be acted on as a group. These items are proposed consent items. He asked if there were any speakers on any of these items. When an individual expressed an interest in speaking on Item 24, President Hastings pulled that item from the list of items to be acted on as a group.

- ACTION: Mr. Jenkins moved that the State Board approve the actions recommended by staff for Items 16, 17, 18, 19, 20, 22, 23, and 25. Ms. Hammer seconded the motion. The motion was approved by unanimous vote of the members present.

Closed Session Report

Ms. Belisle reported that the State Board considered only one matter in the closed session held earlier in the morning, *Comité de Padres de Familia v. Honig*. The State Board approved the proposed settlement agreement in accordance with the discussion in the closed session.

ITEM 24	Special Education Local Plan Area (SELPA) Revised Local Plan Content and Process.	ACTION
---------	---	--------

Sue Sheridan, California Association of Resource Specialists, expressed the organization's concerns about the revised local plan.

Mrs. Joseph asked staff to address concerns raised by the speaker. Mr. Fisher asked if this revised local plan would eliminate some of the problems that charter schools have with special education. Jim Bellotti, Special Education Division, responded that the document was developed to meet the requirements of recent law. The issues of charter schools will be determined locally. Mr. Mockler noted that this is a process document. It does specifically speak to charter schools in several sections. This does not mean it is easy for charter schools, but it is not easy for local districts either. The issue is the encroachment of the cost of special education on school budgets. The state does not pay the full cost incurred by schools. Ms. Belisle commented that the Board has worked to see that charter schools are placed on an even playing field with other schools in this document. Debbie Brown, State SELPA, noted that districts are required to report on all participants in the local plan development process.

FINAL MINUTES
California State Board of Education
January 9-10, 2002

- ACTION: Mr. Nuñez moved that the State Board approve the SELPA Content and Process as presented in the agenda item. Ms. Hammer seconded the motion. The motion was approved by a vote of 8-1. Mr. Fisher voted against the motion.

ITEM 21	The \$20,000 Incentive Award for National Board Certified Teachers (NBCTs) who Teach in Low-performing Schools	ACTION
---------	--	--------

Mr. Vasey noted that these were minor changes in national board certification. The law (AB 804, Strom-Martin) says that teachers have to teach 50 percent of the time to qualify for the incentive awards; the Board policy is 60 percent teaching time. Another issue is the small number of schools that do not have an Academic Performance Index (API) and cannot be ranked by decile.

Mr. Mockler informed the Board that Board staff had flagged this item because it is a serious policy issue. We have a shortage of outstanding teachers. We want these teachers in the classroom. Mr. Fisher asked if there were any statistics on the success of this incentive. Mr. Vasey replied that there were 500 additional National Board Certified Teachers in 2001. The number is increasing dramatically. About half of these teachers teach in low-performing schools.

Mr. Nunez remarked that the state is getting more board certified teachers because of the incentive. The purpose of incentive is to keep the best teachers in the classroom instead of in administration. He stated that he wants to keep the 60 percent classroom teaching requirement and would like to consider increasing the percent of teaching time required. Ms. Hammer agreed with Mr. Nunez, as did Mrs. Joseph.

President Hastings asked if a motion was necessary to keep the 60 percent time requirement. Mr. Vasey replied that no motion was needed on the percent of teaching time. He added that a motion was needed on the API issue. President Hastings stated that he would like to have the Department recommendation on schools without an API be in effect only until the alternative accountability system is in place.

- ACTION: Ms. Hammer moved that the State Board approve the recommendation of CDE staff that, in the absence of an Academic Performance Index, the CDE will determine on a case-by-case basis using available achievement results whether a school is defined as “low performing” for purposes of eligibility for the \$20,000 incentive award. [The State Board did not change the current policy that a National Board Certified Teacher be “assigned to teacher K-12 students in the public schools at least 60 percent time” as a condition for receiving the \$20,000 incentive award.] Mrs. Joseph seconded the motion. The motion was approved by unanimous vote of the members present.

FINAL MINUTES
California State Board of Education
January 9-10, 2002

ITEM 26	The appointment of the Visual and Performing Arts Curriculum Framework and Criteria Committee for the revision of the 1996 Visual and Performing Arts Framework and inclusion of the 2001 Visual and Performing Arts Content Standards.	INFORMATION ACTION
---------	---	--------------------

Tom Adams, Curriculum Development and Instructional Resources Division, introduced Roy Anthony, Past Chair of the Visual and Performing Arts Subject Matter Committee. Mr. Adams informed the Board that Mr. Anthony is a former California Teacher of the Year, led the American marching band in the opening ceremonies of the 2000 Olympics, and will lead the band again in the 2008 Olympics in Beijing.

Mr. Anthony told the Board that he had enjoyed his term on the Curriculum Commission. He noted that it was both more demanding and more rewarding than he expected it to be. The effort was worth it when his granddaughter told him that he had really made a difference in her school. Mr. Anthony outlined the criteria for appointment to the framework and criteria committee. He reported that there were seventeen applicants recommended for the committee – all outstanding individuals.

Ms. Reynolds thanked Mr. Anthony for his service on the Curriculum Commission. She stated that the Board appreciated the difference he had made. She agreed that the candidates for the committee are outstanding. She asked Mr. Anthony to be a special liaison to chair the committee. Ms. Hammer thanked Mr. Anthony for all of his work on the Commission. She commented that he would be an excellent liaison. Ms. Hammer expressed her excitement about the work to update the framework. Mr. Geeting noted four alternates were also nominated and should be included in the motion.

Mr. Anthony invited Ms. Reynolds to attend the first meeting of the framework and criteria committee to welcome the committee members.

- ACTION: Ms. Reynolds moved that the State Board (1) appoint the members and (to the extent they may be needed) the alternate members of the Visual and Performing Arts Curriculum Framework and Criteria Committee as recommended by the Curriculum Development and Supplemental Materials Commission (CFCC); and (2) appoint Roy Anthony as the State Board’s special liaison to chair the Visual and Performing Arts CFCC. Ms. Hammer seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 10	Interviews of Applicants and Appointments to the Advisory Commission on Special Education.	INFORMATION ACTION
---------	--	--------------------

Mrs. Joseph reported that the Screening Committee had interviewed four excellent candidates for appointment to the Advisory Commission on Special Education. It was a difficult choice. The Screening Committee recommends Catherine Conrado and Catherine G. Garbacz for appointment to the Advisory Commission. [Attachment 11]

FINAL MINUTES
California State Board of Education
January 9-10, 2002

- ACTION: Reporting the recommendation of the Screening Committee from the preceding day, Mrs. Joseph moved that the State Board appoint Catherine Conrado and Catherine E. Garbacz to four-year terms on the Advisory Commission on Special Education ending December 31, 2005, in accordance with Education Code Section 33590. Mr. Jenkins seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 27	Legislative update, including, but not limited to, a report on clean up legislation for AB 961.	INFORMATION ACTION
---------	---	--------------------

Erika Hoffman, Government Affairs Office, gave a brief report. She drew the Board’s attention to some of the highlights of Governor Davis’ education budget. She noted that the Proposition 98 guarantee is fully funded at \$46 billion. The budget also calls for full funding for growth and cost-of-living increases. [Attachment 12]

ITEM 29	Approval 2001-2002 Consolidated Applications.	INFORMATION ACTION
---------	---	--------------------

President Hastings noted that Compton is one of the districts for which the Board is being asked to withhold funds. Mr. Hill commented that the Board had heard Mr. Ward speak this morning. Compton does have problems relating to English learners. Mr. Hill recommended that Sacramento City Unified School District be taken off the list. The Department has information from district that it has not reviewed yet. The district believes the information demonstrates progress. Also, the Department is planning to visit the district in March.

Keric Ashley, Consolidated Program Accountability, informed the Board that 22 local education agencies (LEAs) were recommended for regular approvals, 16 for conditional approval, and five for conditional approval and withholding of Economic Impact Aid.

Ms. Tacheny asked about the reasons for the recommendations to withhold funds. She stated that she was especially interested to know if the concerns were about process or outcomes. Mrs. Joseph stated that she needs to see something, to have real information about the reasons for which districts are being considered noncompliant. Ms. Tacheny commented that without information, she can have no faith in the recommendations from the Department.

Mr. Hill responded that all of the districts recommended for withholding of funds have been in some state of noncompliance for five years or more. These are *Comité* districts. These are long standing noncompliant districts. Mr. Hill asked Mr. Ashley to provide a brief description of the issues in each of the five districts.

Mr. Ashley informed the Board that in Alum Rock there is a list of problems. The most serious of which are whether the students are being taught English and whether English learners have access to the core curriculum. Ms. Tacheny asked what was considered in the compliance review process for the reviewer to determine if students are learning English. Mr. Ashley replied that reviewers ask the district about proficiency.

FINAL MINUTES
California State Board of Education
January 9-10, 2002

Ms. Hammer said that it was her understanding that in Alum Rock the four major issues are resolved. Alum Rock has been working with the Department and believes it will be found in compliance in March. She added that a new superintendent has been hired. Mr. Ashley stated that he has also heard that Alum Rock has met the latest round of benchmarks. He noted that Alum Rock has been out of compliance for eight years. Under the Department's recommendation the money stops now, but once the district is compliant, the money flows again.

Mr. Fisher asked about the process for deciding to recommend withholding of funds. Mr. Ashley responded that now there is a process in place that gives districts three years to become compliant and calls for more frequent Department visits.

Ms. Hammer noted that leadership is a key issue. Mr. Ashley replied that the Department understands the importance of leadership. Leadership is why new benchmarks are set if old benchmarks are not met. Mrs. Joseph remarked that the leadership in Alum Rock and in Oakland is totally new.

President Hastings stated that over the last five years the Department has worked with these schools to bring them into compliance. It is not as though nothing has been happening during the last five years. Mr. Ashley said that some districts have more issues than others. Grant, Oakland, Pittsburg, and Compton all have the same major issues: a lack of a systematic way of teaching English to English learners and access to core curriculum for English learners.

The following individuals addressed the Board on this item:

Bev Shaw, Alum Rock Union Elementary School District (ARUSD)	Norma Rodriguez, ARUSD
Norma Martinez, ARUSD	Ed Heatley, Grant Union School District
Millie Arellano, ARUSD	Gabriel Model, Parents for Unity
Rosemary DeVillar, ARUSD	Mary Hernandez, META
Dolores Marquez, ARUSD	Don Bridge, California Teachers Association

President Hastings pointed out to the Board that it is under a court order on implementing compliance under *Comité*. These violations need to be addressed. The Board would not be taking the money away permanently. The districts will get their money as they meet benchmarks. President Hastings urged the Board to back the Department's judgment on moving this forward.

Ms. Tacheny stated that she still does not have a clear understanding of what the process is for reviewing schools. President Hastings reminded the Board that the *Comité* checklist was agreed to in court and is not something over which the Board has discretion. Ms. Reynolds inquired if the Board would still be adhering to the court order if it delayed the decision a few months until the March or April reviews of these districts. President Hastings noted that even if the Board takes action today, the schools will be reviewed in a few months. Ms. Belisle commented that she understands that some of these districts had conditional approvals in the past. This would just reverse the funding flow – districts would have to meet benchmarks to receive the withheld funding. The Department already has imposed

FINAL MINUTES
California State Board of Education
January 9-10, 2002

the other sanctions available to them. President Hastings said that the Department is seeking our assistance with this tool.

Mr. Jenkins asked what was in the Sacramento City Unified material to warrant waiting to act on its consolidated application. Mr. Hill replied that the volume of material was so large the Department staff has not reviewed it all as yet. Mr. Jenkins inquired about the information that might have been recently received from other districts. President Hastings responded that he thinks the Department has made its recommendations based on the most recent information.

- ACTION: Mr. Nuñez moved that the State Board approve the recommendations of CDE staff with respect to 2001-2002 Consolidated Applications: 22 receiving regular approval; 16 receiving conditional approval and no withholding of funds; and 5 receiving conditional approval and withholding of Economic Impact Aid funds. [The 2001-2002 Consolidated Application from the Sacramento City Unified School District was withdrawn from consideration under this agenda item; it will be presented at a future meeting.] Ms. Reynolds seconded the motion. The motion was approved by a vote of 6-0-3. Mr. Fisher, Mrs. Joseph, and Ms. Tacheny, though present, did not vote on the motion.

WAIVERS/PETITIONS: CONSENT, PROPOSED CONSENT, AND NONCONSENT

CONSENT WAIVERS (WC-1 – WC-4)

CARL D. PERKINS VOCATIONAL AND TECHNICAL EDUCATION ACT 1998

ITEM WC-1	Request by Julian Union High School District for a <u>renewal</u> waiver of Section 131(d)(1) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (P.L. 105-332). CDSIS-6-11-2001 (Recommended for APPROVAL)	ACTION
-----------	--	--------

ITEM WC-2	Request by Los Molinos Unified School District for a <u>renewal</u> waiver of Section 131(d)(1) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (P.L. 105-332). CDSIS-20-11-2001 (Recommended for APPROVAL)	ACTION
-----------	---	--------

CHARTER SCHOOL ATTENDANCE

ITEM WC-3	Request by the Big Lagoon Union School District to waive Title 5 CCR Section 11960, related to charter school attendance, for Big Lagoon Charter School. CDSIS-31-10-2001 (Recommended for APPROVAL WITH CONDITIONS) <i>Education Code</i> Section 33051(c) will apply	ACTION
-----------	---	--------

FINAL MINUTES
California State Board of Education
January 9-10, 2002

INSTRUCTIONAL MATERIALS SUFFICIENCY (Audit Findings)

ITEM WC-4	Request by sixteen 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
-----------	--	--------

Judy Pinegar, Waiver Office, informed the Board that there were no changes or corrections to these consent waiver. She drew the Board's addition to WC-4, which covers 16 districts.

- ACTION: Mr. Nuñez moved that the State Board approve the requests in Items WC-1, WC-2, WC-3, and WC-4, in accordance with the recommendations of CDE staff, including the conditions noted for Item WC-3. [A list of districts was presented by CDE staff for Item WC-4.] Ms. Reynolds seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Ms. Hammer, Mrs. Joseph, and Ms. Tacheny were not present when the vote was taken.

PROPOSED CONSENT WAIVERS (W-1, W-3, W-5, W-6, W-7, W-9 through W-15, W-17, W-18, and W-20)

ACADEMIC PERFORMANCE INDEX (API) AWARDS-MINIMUM PARTICIPATION RATE OF 95%

ITEM W-1	Riverside Unified School District (RUSD) Academic Performance Index (API) Waiver. Specifically the RUSD requests a waiver of the Title 5 CCR Section 1032(i), "For elementary and middle school, minimum participation rate for the awards programs shall be 95%..." to allow Sierra Middle School to be eligible for API awards in the current year (2001) due to the loss of answer sheets that occurred while in transit to the scoring vendor. CDSIS-35-11-2001 (Recommended for APPROVAL)	ACTION
----------	--	--------

BEGINNING-TEACHER MINIMUM SALARY INCENTIVE PROGRAM

ITEM W-3	Request by Big Valley Joint Unified School District to waive <i>Education Code</i> Section 45023.1(b)(1) and 45023.1(h) to implement the Beginning-Teacher Minimum Salary Program in fiscal year 2001-02. CDSIS-44-7-2001 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
----------	--	--------

FINAL MINUTES
California State Board of Education
January 9-10, 2002

COMMUNITY DAY SCHOOL

ITEM W-5	Request by Cotati-Rohnert Park Unified School District for renewal of a waiver of <i>Education Code</i> Section 48661(a) relating to the placement of a community day school on the same site as the El Camino Alternative Education Center (two continuation high schools, an independent study center, and an adult education center). CDSIS-28-11-2001 (Recommended for APPROVAL)	ACTION
----------	--	--------

EQUITY LENGTH OF TIME

ITEM W-6	Request by Brentwood Union School District to waive <i>Education Code</i> Section 37202, the equity length of time requirement for 5th grade students in the district. CDSIS-19-10-2001 (Recommended for APPROVAL)	ACTION
----------	--	--------

EMERGENCY LOAN COUNTY OFFICE OF EDUCATION WAIVER

ITEM W-7	Request by Alameda County Office of Education to waive <i>Education Code</i> Section 41328(a) and its requirement to pay 40 percent of the compensation cost of the State Administrator assigned to Emery Unified School District. CDSIS-36-11-2001 (Recommended for APPROVAL) <i>Education Code</i> Section 33051(c) will apply	ACTION
----------	---	--------

INSTRUCTIONAL TIME PENALTY

ITEM W-9	Request by San Lorenzo Valley Unified School District to waive the full longer-day instructional time penalty <i>Education Code</i> Section 46201.5(a) and (c) for the 1990-91, 1992-1993, and 1993-94 fiscal years. CDSIS-23-10-2001 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
----------	--	--------

MATHEMATICS PROFESSIONAL DEVELOPMENT GRANT

ITEM W-10	Request by four 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. SEE ATTACHED LIST (Recommended for APPROVAL)	ACTION
-----------	--	--------

FINAL MINUTES
California State Board of Education
January 9-10, 2002

NONPUBLIC SCHOOL/AGENCY (OUT-OF-STATE)

ITEM W-11	Request by Santa Barbara County SELPA to waive <i>Education Code</i> Section 56366.1(a), the certification requirement for an uncertified nonpublic agency (The Learning Clinic, located in Brooklyn, Connecticut) to provide services to one special education student, Megan F. CDSIS-9-10-2001 (Recommended for APPROVAL)	ACTION
ITEM W-12	Request by Norwalk-La Mirada Unified School District to waive <i>Education Code</i> Section 56366.1(a), the certification for an uncertified nonpublic school, (Aspen Ranch, located in Loa, Utah) to provide services to one special education student Kurtis F. CDSIS-21-7-2001 (Recommended for APPROVAL)	ACTION
ITEM W-13	Request by Fresno Unified School District (FUSD) to waive <i>Education Code</i> Section 56366.1(a) the certification requirements for an uncertified nonpublic agency, Career Staff Unlimited (for one speech therapy therapist) to provide speech therapy services to 37 students (list attached). CDSIS-32-6-2001 (Recommended for APPROVAL)	ACTION

OUT-OF-STATE FIELD TRIPS

ITEM W-14	Request by Salinas Union High School District for a waiver of a portion of <i>Education Code</i> Section 35330(d) to allow the expenditure of funds and transportation allowances out-of-state for students engaged in out-of-state excursions and field trips. CDSIS-39-10-2001 (Recommended for APPROVAL)	ACTION
-----------	---	--------

PEER ASSISTANCE AND REVIEW (PAR) PROGRAM

ITEM W-15	Request by the Oroville Union High School District to waive the July 1, 2001 Peer Assistance and Review (PAR) certification deadline of July 1, 2001 as stipulated in Education Code Sections 44504 and 44505, to “December 7, 2002”, allowing the district to reapply for certification of a PAR program and maintain other staff development funds. CDSIS-26-11-2001 (Recommended for APPROVAL)	ACTION
-----------	---	--------

FINAL MINUTES
California State Board of Education
January 9-10, 2002

ITEM W-17	Request by the Contra Costa County Office of Education to waive <i>Education Code</i> Sections 44500(b)(1) and 44501(a) relating to the Peer Assistance and Review (PAR) program to allow Adult Education and ROP (permanent or probationary) teachers to participate in the PAR program. CDSIS-32-10-2001 (Recommended for APPROVAL WITH CONDITIONS) <i>Education Code</i> Section 33051(c) will apply	ACTION
-----------	--	--------

ITEM W-18	Request by Moraga School District to waive <i>Education Code</i> Section(s) 44500 (b)(1) and 44501(a) relating to the Peer Assistance and Review (PAR) program to allow Adult Education and ROP (permanent or probationary) teachers to participate in the PAR program. CDSIS-23-11-2001 (Recommended for APPROVAL WITH CONDITIONS) <i>Education Code</i> Section 33051(c) will apply	ACTION
-----------	--	--------

SCHIFF-BUSTAMANTE STANDARDS-BASED INSTRUCTIONAL MATERIALS-
ENGLISH/LANGUAGE ARTS

ITEM W-20	Request by North Sacramento School District to waive <i>Education Code</i> Sections 60450(b) and 60451(b) Schiff-Bustamante Standards-Based Instructional Materials Program to purchase non-adopted Instructional Resources (Open Court 2000 Reading Program, Grade 4) using Schiff-Bustamante Funds. CDSIS-37-11-2001 (Recommended for APPROVAL)	ACTION
-----------	---	--------

[Attachment 13, Chart of Proposed Consent and Nonconsent Waivers]

Ms. Pinegar noted that there were corrections to two waivers. In W-15, the district was in compliance by December 7, 2001, not December 7, 2002, as was written in the agenda materials. In W-18, the waiver request was to include all credentialed teachers, probationary as well as permanent, not ROP and Adult Education teachers.

Ms. Pinegar informed the Board that the following waivers were proposed consent waivers: W-1, W-3, W-5, W-6, W-7, W-9, W-10, W-11, W-12, W-13, W-14, W-15, W-17, W-18, and W-20. She noted that there were no speakers on any of these waivers.

- ACTION: Mr. Jenkins moved that the State Board approve the requests in Items W-1, W-3, W-5, W-6, W-7, W-9, W-10, W-11, W-12, W-13, W-14, W-15, W-17, W-18, and W-20, in accordance with the recommendations of CDE staff, including the conditions specified for Items W-3, W-9, W-17, and W-18. [The motion recognized the correction of technical errors with

FINAL MINUTES
California State Board of Education
January 9-10, 2002

respect to the written presentations for Items W-15 and W-18.] Mr. Nuñez seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Ms. Hammer, Mrs. Joseph, and Ms. Reynolds were not present when the vote was taken.

ACADEMIC PERFORMANCE INDEX (API) AWARDS-INCREASE OF 5 POINTS OR 5%

ITEM W-2	Request by Ojai Unified School District to waive <i>Education Code</i> Section 52057(a) and Title 5 CCR Section 1032(g)"...an API score increase of 5 points..." which would in effect allow one school, Meiners Oaks Elementary School to be "awards eligible" for the 2001 Governor's Performance Award Program. CDSIS-14-11-2001 (Recommended for DENIAL)	ACTION
----------	--	--------

Tim Baird, Assistant Superintendent, Ojai Unified School District, spoke in support of the waiver.

Bill Padia, Policy and Evaluation Division, stated that the Department recommended denial of this waiver. He noted that if a school has a significant change in demographics, it has to invalidate its API. This district did not do that. Mr. Padia explained that the school was not awards eligible due to a subgroup not making its growth target.

- ACTION: Ms. Hammer moved that the State Board deny the request in Item W-2, citing the justification set forth in Education Code Section 33051(a)(1), in accordance with the recommendation of CDE staff. Mr. Jenkins seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Joseph was not present when the vote was taken.

Mr. Padia announced that new 2001 Base Year API, which includes the California Standards Test in English-language arts, would be released the next week.

CHILD CARE FACILITIES-PERMANENT VS RE-LOCATABLE

ITEM W-4	Request by Caruthers Unified School District to waive <i>Education Code</i> Section 8278.3 to allow for the lease/purchase of permanent facilities instead of the lease/purchase of re-locatable facilities from the state as provided by statute for the Child Care Facilities Revolving Fund. CDSIS-16-10-2001 (Recommended for DENIAL)	ACTION
----------	---	--------

Ms. Pinegar informed the Board that the district had withdrawn this waiver request.

FINAL MINUTES
California State Board of Education
January 9-10, 2002

GOVERNOR'S SCHOLARS PROGRAM

ITEM W-8	Request by Santa Rosa High School District to waive <i>Education Code</i> Section 69995(d)(3)(b)...to be eligible to receive awards under the Governor's Scholars Program, pupils must take both English/language arts and mathematics California Standards Test (STAR). Waiver would allow students at Maria Carrillo High School to qualify for awards for the 2001 school year. CDSIS-42-11-2001 (Recommended for DENIAL)	ACTION
----------	--	--------

Steve Butler, Testing Director, Santa Rosa High School District, and Mark Glick, Principal, Maria Carrillo High School District, spoke in support of the district's waiver.

Paul Warren, Deputy Superintendent, reminded the Board that it had an almost analogous situation previously. In these situations, the Department recommends denial of the waiver so that the testing law has some meaning. Ms. Hammer stated that she felt there was no choice but to vote for denial. President Hastings remarked that this was a small but significant mistake. He suggested that the district consider making it up to students as recognition of where the responsibility belongs.

- ACTION: Ms. Hammer moved that the State Board deny the request in Item W-8, citing the justifications set forth in Education Code Section 33051(a)(1) and (6), in accordance with the recommendation of CDE staff. Mr. Fisher seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Joseph was not present when the vote was taken.

ITEM W-16	Request by the Bend Elementary School District to waive the July 1, 2001 Peer Assistance and Review (PAR) certification deadline of July 1, 2001 as stipulated in <i>Education Code</i> Sections 44504 and 44505, to "June 30, 2002," allowing the district to reapply for certification of a PAR program and maintain other staff development funds. CDSIS-36-10-2001 (Recommended for DENIAL)	ACTION
-----------	---	--------

Ms. Pinegar informed the Board that to date there was no agreement between the teachers and the district on the PAR program. For this reason, the Department recommends denial of this waiver.

- ACTION: Ms. Reynolds moved that the State Board deny the request in Item W-16, citing the justification set forth in Education Code Section 33051(a)(4). Mrs. Ichinaga seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Joseph was not present when the vote was taken.

FINAL MINUTES
California State Board of Education
January 9-10, 2002

RESOURCE SPECIALIST

ITEM W-19	Request by Dos Palos Oro Loma Joint Unified School District to waive <i>Education Code</i> Section 56362(c) which allows the district to exceed the maximum caseload of 28 students (but not more than 32) for each resource specialist teacher: Chuck Finster at Dos Palos Elementary/Marks Elementary, Karen Weaver at Marks Elementary, Nikki Pigg, Bill Van Worth, and Steve Hobbs at Dos Palos High School. CDSIS-37-10-2001 (Recommended for DENIAL)	ACTION
-----------	--	--------

Ms. Pinegar stated that on the basis of a letter from union, which now says it is neutral on the waiver, the Department recommendation has been changed from denial to approval with conditions.

Sue Sheridan, California Association of Resource Specialists, addressed the Board.

- ACTION: Ms. Reynolds moved that the State Board conditionally approve the request in Item W-19 in accordance with the revised recommendation of CDE staff. Mr. Nuñez seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Joseph was not present when the vote was taken.

ITEM 30	Appeal by Chief Petitioners of the County Committee’s Denial of a Petition to Transfer Territory from the Lake Elsinore Unified School District to the Murrieta Valley Unified School District in Riverside County.	ACTION
---------	---	--------

[Mrs. Joseph indicated that she would decline to participate in the discussion or action on this matter because she owns property in the general vicinity of the territory proposed to be transferred in accordance with this agenda item.]

President Hastings informed the audience that each side would have five minutes to make a presentation to the Board.

Jan Sterling, School Fiscal Services Division, introduced Teri Chen of her staff. Ms. Chen noted that this transfer petition involves 733 acres of relatively undeveloped land. The Department recommends that the Board deny the appeal. The County Committee denied the petition. The Department staff does not believe the petition meets all criteria under the law; specifically, Criterion 8 was not met. Criterion 8 states “the proposed reorganization is not primarily designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to an adjoining district.”

The following individual spoke in support of the territory transfer:
Glen Daigle, Property Owner

FINAL MINUTES
California State Board of Education
January 9-10, 2002

The following individuals spoke in opposition to the territory transfer:
Sharron Lindsay, Lake Elsinore Unified School District
Chuck Depreker, Murrieta Valley Unified School District

President Hastings commented that both districts are opposed to the transfer and the County Committee opposed the transfer, despite finding that all criteria were met. The Department found the petition did not meet all the criteria.

- ACTION: Ms. Tacheny moved that the State Board deny the appeal and affirm the action of the Riverside County Committee on School District Organization by adoption of the resolution to that effect prepared by CDE staff and included in the agenda item. Mr. Jenkins seconded the motion. The motion was approved by unanimous vote of the members present, except that Mrs. Joseph did not participate in the consideration of this agenda item or the vote on this motion.

ITEM 31	Public Hearing and Adoption of Permanent English Learner Regulations.	INFORMATION ACTION PUBLIC HEARING
---------	---	--

Jan Mayer, Language Policy and Leadership Office, summarized the public comments received during the 15-day public review period.

President Hastings called the Public Hearing order at 12:38 p.m. He informed the audience that a translator was available.

The following individuals addressed the Board on this item:

Mary Hernandez, META	Alejandro Paéz, parent
Mikki Cichocti Barlett teacher	Jorge Perez, parent
Kathleen McCreery, ACSA	Yolanda Gomez, parent
Holly Covin, CSBA	Hermelinda Gonzales, parent
Martha Diaz, CABA	Rosalinda Salinas, San Diego COE
Marta Valenga	Rafael Flores, parent
Pilar Mejia, CABA, San Francisco Latino Teachers Association	Solso Gonzales
Francisca Bossa, parent	Leoncio Vasquez, parent
Joaquina Gomez, parent	Josefina Dominguez
Rosa Tamayo, parent	Olimpia Dominguez
Alba Aguilera, parent	Victor Castro, parent
Rebecca Bello, parent	Raul Pickett
Gabriel Model, Parents for Unity	Pasquel Flores, parent
	Peggy Barber, LAUSD

President Hastings acknowledged the parents and recognized that many had traveled to come before the Board. He stated that he knows at times it is frustrating and difficult to try to change the system and the Board. He thanked the speakers for their comments and the stories about their children.

FINAL MINUTES
California State Board of Education
January 9-10, 2002

President Hastings closed the Public Hearing at 1:30 p.m.

President Hastings commented that at this juncture he would recommend sending out the regulations with the changes proposed by staff for public comment. [Attachment 14] He stated that he would like as broad a range of input as possible. Mr. Nuñez reported that he had represented the Board at a meeting with the Legislature’s Latino Caucus and had also met with a number of other people on this issue. The regulations should go out for a 15-day public review.

Mr. Jenkins inquired about the number of days for review. Ms. Belisle replied that statute requires 15 days and staff must respond to public comments made in that time period. The Board will not hear the regulations until the February meeting. Ms. Tacheny noted that the meeting calendar actually allows more than 15 days for people to respond to the proposed regulations.

Ms. Reynolds suggested a change in the section on advisory committees. Ms. Belisle suggested broadening the language so that 11308(c)(7) would read, “Review and comment on the written notifications required to be sent to parents and guardians pursuant to this subchapter.” Ms. Reynolds agreed to the broader language.

- ACTION: Mr. Nuñez moved that the State Board send out amendments to the proposed regulations for a 15-day public comment period in accordance with the Administrative Procedure Act (including both the amendments recommended by staff and the amendment suggested by Ms. Reynolds). Mr. Jenkins seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 32	General Educational Development (GED): Emergency Regulations and Notice of Proposed Rulemaking.	INFORMATION ACTION
---------	---	--------------------

Mark Fetler, Standards and Assessment Division, told the Board that the Office of Administrative Law had wanted additional information in the regulations. That information is provided in these proposed regulations.

- ACTION: Mr. Nuñez moved that the State Board approve the Emergency Regulations and Notice of Proposed Rulemaking (including technical revisions as may be necessary). Mrs. Joseph seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Ms. Hammer was not present when the vote was taken.

ITEM 33	Emergency Regulations (and Notice of Proposed Rulemaking) Pertaining to Implementation of the Nonclassroom-Based Instruction Provisions of Senate Bill 740 (Chapter 892, Statutes of 2001).	INFORMATION ACTION
---------	---	--------------------

Ms. Sterling asked Mr. Geeting to explain the changes to the proposed regulations. Mr. Geeting outlined the information in the memo regarding the revised regulations. [Attachment 15]

FINAL MINUTES
California State Board of Education
January 9-10, 2002

Mark Kushner, Chair of the Charter School Advisory Committee, recognized the work of the Committee members. He thanked Mr. Geeting for his support, his minute taking, and for providing materials. Mr. Kushner explained the 50 percent safe harbor in the proposed revised regulations. He stated that the problem for him is that he has no data on which to judge whether it is reasonable. This percent may need to be changed later. In developing the proposed regulations, the Committee was following the Governor's request to not stop all non-classroom based schools, only those with excessive profits. He noted that the Department has taken on the task of analyzing and organizing the information for the Committee's review. He commented that he looks forward to the work of making fair decisions for these nonclassroom-based charter schools.

Mr. Geeting noted that the first funding decisions would be made in March and the permanent regulations would be back before the Board in April. There will be information from the funding actions in March to help guide the Board's decision making on the permanent regulations in April.

The following individuals addressed the Board on this item:
David Patterson, California Network of Educational Charters
Jayna Gaskell, Prosser Creek Charter School
Dan Troy, Department of Finance
Sharon Scott Dow, California Teachers Association

Mrs. Joseph asked Ms. Dow for clarification of a statement that she had made. Ms. Dow referred Mrs. Joseph to section 11963.3 in the revised regulations, specifically the language about seeking assistance from knowledgeable advisors. President Hastings suggested striking that language.

President Hastings remarked that developing these regulations has been a difficult task. He stated that the we will have more information and more discussion when permanent regulations are before us.

- ACTION: Mrs. Ichinaga moved that State Board approve the Emergency Regulations and Notice of Proposed Rulemaking with the revisions to the text of the regulations presented by staff (and including technical revisions as may be necessary). Mr. Nuñez seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Ms. Hammer was not present when the vote was taken.

ITEM 34	Proposed Amendment of Title 5, CCR Regulations Relating to Disputes Between School Districts and Charter Schools Regarding Facilities.	INFORMATION ACTION
---------	--	--------------------

Ms. Sterling noted that in this item the Department is asking the Board to decide which option it wants to approve for dispute resolution.

President Hastings commented that staff got out the new version of the regulations quite late. [Attachment 16] The Department staff needs time to review this new draft of the regulations. He announced that the Board would not act on this item today, but would like to hear from speakers.

FINAL MINUTES
California State Board of Education
January 9-10, 2002

The following individuals addressed the Board on this item:

Ernie Silva, Coalition for Adequate School Housing
Sharon Scott Dow, California Teachers Association
Lupita Cortez, California School Boards Association
Laura Walker Jeffries, Association of California School Administrators
David Patterson, California Network of Educational Charters

Ms. Reynolds stated that it is critical to have an explicit definition of binding arbitration so that we are all on the same page. Ms. Belisle noted that there is a gray area on the Board's authority to require binding arbitration under Proposition 39. There is no explicit mention of binding arbitration in the proposition or ballot arguments. Arguments could be made on both sides. She added that she hopes in the public review process we will hear from interested parties on this matter.

ITEM 36	Update on reauthorization legislation for the Elementary and Secondary Education Act.	INFORMATION
---------	---	-------------

President Hastings asked for an outline of significant changes in the Elementary and Secondary Education Act in writing next month. This document would be a resource that the Board members can refer to for many years. Mr. Hill noted that the Department's Washington representatives would be out next week to do briefings for the Department and also for Board staff.

ITEM 35	Consideration of Appropriate Action, including, but not limited to, Revocation of a School Charter pursuant to Education Code Section 47604.5: Gateway Academy Charter School, Fresno Unified School District.	INFORMATION
---------	--	-------------

President Hastings announced that this item was for information only; there is no action to be taken. He added that the local district is acting expeditiously.

Carol Blosser, Deputy Superintendent, Fresno USD, outlined the district's compliance review of the charter. She informed the Board that the district is asking the school board to consider revoking the charter at its January 16, 2002 meeting. She reported that the district will hold a public hearing on all of the district's charter schools in February.

David Patterson, California Network of Educational Charters, addressed the Board.

Mr. Fisher asked whether the charter school had followed the open enrollment policy. Marilyn Sheppard, Fresno USD, replied that the charter had.

President Hastings thanked the Fresno USD representatives for acting expeditiously to resolve this matter.

Adjournment: President Hastings adjourned the meeting at 2:48 p.m.