

FINAL MINUTES
State Board of Education
November 13-14, 2002

Thursday, November 14, 2002

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

Members Present

Reed Hastings, President
Joe Nuñez, Vice President
Robert J. Abernethy
Donald Fisher
Nancy Ichinaga
Marion Joseph
Stephanie H. Lee
Suzanne Tacheny

Members Absent

Carlton Jenkins
Susan Hammer
Vacancy

Closed Session

The State Board met in Closed Session from 8:05 a.m. to 9:00 a.m. (See Closed Session Report below.)

Call to Order

President Hastings called the meeting to order at 9:03 a.m.

Salute to the Flag

Stephanie Lee led the Board, staff, and audience in the Pledge of Allegiance.

Closed Session Report

President Hasting reported that in the Closed Session just completed, the State Board considered the matter of a request by the Chief Counsel for a conflict of interest waiver related to her forthcoming employment (beginning in December) by the Los Angeles Unified School District. The waiver was approved with specific wording to be communicated to the Chief Counsel.

Announcements/Communications

Ms. Lee reported on the Student Advisory Board on Education (SABE) Conference.

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ITEM 5	Implementation of Assembly Bill 1781 (Hertzberg), Chapter 802, Statutes of 2002: Instructional Materials Funding Realignment Program (IMFRP).	INFORMATION ACTION
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[Item postponed from Wednesday session.]

Sherry Griffith, Curriculum Frameworks and Instructional Resources Division, reported on the implementation of Assembly Bill 1781 and explained the \$400 million funding for K-12 materials, which breaks down to approximately \$64.50 per student for 2002-03. Regulations are proposed to clarify for districts the requirements of AB 1781, and the Department is recommending that the Board act on emergency regulations that would be effective January 1, 2003. She outlined the priorities for instructional materials under AB 1781. In the proposed regulations, once districts have purchased the instructional materials required under AB 1781, they can spend 100 percent of the remaining funds on non-adopted instructional materials. Ms. Griffith also commented on the technical changes proposed in the second memorandum from Mr. Geeting.

The following individuals addressed the Board:
David Patterson, California Network of Educational Charters (CANEC)
Dale Shimasaki, Strategic Education Strategies
Martha Zaragoza Diaz, Californians Together Coalition
Bob Lucas, Delta Education

Mrs. Joseph stated that she thinks staff has done a very good job on the proposed regulations. She expressed concern about the proposed language that would change the \$9 for schools to purchase non-adopted instructional materials in a year in which a district is piloting adopted materials to a percentage. She noted that the \$9 was a negotiated amount. She remarked that she wants districts to know that the adopted programs include intervention materials for intermediate and middle grades students who are substantially below grade level. In addition, districts need to be informed of the legislation's intent that they adopt, for grades K-8, reading-language arts programs by the 2003-04 school year. Mr. Geeting suggested including that information in the proposed letter to districts. Ms. Griffith agreed that the Department would include that information in the letter that would be sent to districts to inform them about the funding.

- By consensus, the State Board President was empowered to send a joint letter with the State Superintendent-Elect to local education agencies discussing (1) the expectation set forth in the Governor's signing message on AB 1781 that every K-8 pupil is to be provided a 2002 state-adopted basic instructional materials program in reading-language arts by the commencement of the 2003-04 academic year; and (2) the fact that specific, effective, research-based intervention materials have been adopted for all intermediate and middle grade students (including English learners) who are substantially below-grade-level in achievement in reading-language arts.

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ITEM 19	Assignment of Numbers for Charter School Petitions.	ACTION
ITEM 20	Request to Fund the Recommended List of Public Charter Schools Grant Program Award Recipients.	ACTION
ITEM 21	2002-03 (and beyond) 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
ITEM 22	Revisions to the <i>California School Accounting Manual</i> .	ACTION

President Hastings noted that Items 19 through 22 were proposed consent items and could be acted on as a group. He called for comments from the Board and the audience.

Mr. Fisher stated that because of his affiliation with certain charter schools included in Item 20 (through the foundation he heads), he would not participate in the consideration of the proposed consent items. He left the meeting room for the duration of this discussion after making his statement.

The following individual addressed the Board on Item 20:
Mark Medina, KIPP Foundation

At President Hastings' request, Janet Wadley, School Fiscal Services Division, provided an overview of the grant application review process. Mrs. Joseph expressed her concern about the review process. She stated that there has to be some adjustment to the procedure so that identical applications are not approved by one reviewer and denied by another reviewer. There must be inter-rater reliability between reviewers. President Hastings noted that the evaluation process needs to be able to recognize and respond to vast numbers of identical applications (e.g., 20 applications that are mere electronic copies of one another).

President Hastings requested that the Department staff assess the application review process and report to the Board on proposals to improve the process. Deputy Superintendent Susan Lange agreed to get the information to the State Board as soon as possible, but noted that the next big application reading is not expected until next year.

- ACTION: Mr. Abernethy moved that the State Board approve the staff recommendation for Items 19, 20, 21, and 22. Ms. Lee seconded the motion. The motion was approved by unanimous vote of the members present and participating in the vote. Mr. Fisher did not participate in the consideration of these items (including the vote) for the reason he stated.

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ITEM 23	Legislative Update: Including, but not Limited to, the Results of the November 5, 2002 Elections	INFORMATION ACTION
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Erika Hoffman, Government Affairs Office, reported that there are 32 newly elected Assembly members and that most of the new senators are former members of the Assembly. There are three races that are still undecided: State Controller, Senate District 12, and State Assembly District 30. The Senate is expected to have 26 Democrats and 14 Republicans. The Legislature will be sworn-in December 2, and the constitutional officers will be sworn-in in January.

No action was taken on this item.

ITEM 24	Permanent Regulations Relating to Disputes Between School Districts and Charter Schools Regarding Facilities for Charter Schools.	INFORMATION ACTION
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Mr. Geeting reported that there was a technical change proposed to the language of bullet #2 in his memorandum. The change would be to add to the end of the current sentence the words “or unless otherwise specified by statute.”

President Hastings noted that the big change in these regulations from the regulations that the Board had previously approved is these regulations would have a two-year sunset subject to extension by a later action.

Jan Sterling, School Fiscal Services Division, presented a suggested change to proposed language regarding the Department’s cost recovery in the resolution process. President Hastings requested the opportunity for the Department of Finance to review this suggested change. Ms. Belisle concurred that the Department of Finance should be consulted. Ms. Tacheny asked if there were other circumstances in which the Department charged for their services. Mr. Fisher questioned why the Department has not previously raised this issue. President Hastings again stated his desire to confer with the Department of Finance prior to taking any action on the Department’s proposal.

The following individuals addressed the Board:

Brian Bennett
Ernest Silva, Coalition for Adequate School Housing
David Patterson, CANEC

- ACTION: Mr. Fisher moved that the State Board approve the circulation for 15-day public review (in accordance with the Administrative Procedure Act) of amended permanent regulations regarding disputes between school districts and charter schools regarding facilities for charter schools. The amendments are to be those presented in the agenda item, the supplemental memorandum prepared by State Board staff, and an oral addition presented at the meeting by State Board staff (i.e., adding the phrase “or unless otherwise specified by statute” at the end of proposed paragraph (b)(7)). The amended regulations are to be returned to the State Board for action at the December 2002 meeting. Mr. Abernethy seconded the motion. The motion was approved by unanimous vote of the members present.

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Mr. Nuñez requested that the State Board receive additional information regarding a recently released report that was prepared by the Fiscal Crisis and Management Assistance Team (FCMAT) on the Prosser Creek Charter School. Mr. Geeting informed the Board that the Advisory Commission on Charter Schools might address this issue at its next meeting and he would subsequently report on the Commission’s discussion.

ITEM 25	Title 5 Regulations on Administration of Medication to Pupils at Public Schools.	INFORMATION ACTION
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Deputy Superintendent Paula Mishima stated that the Department is asking that the State Board approve the Notice of Proposed Rulemaking to send the proposed regulations out for the 45-day public review and comment period. Ms. Mishima informed the Board that these proposed regulations had been difficult to develop and that there still are concerns about the proposed regulations. She noted that the Department had assembled a committee to help develop the proposed regulations and thanked the committee for their hard work.

Ms. Mishima said that Department staff has worked with Mr. Geeting to address some issues raised by the Board in June. She stated that the Department has no objections to the technical changes proposed in Mr. Geeting’s memorandum.

Mrs. Joseph thanked the members of the committee for their work on the proposed regulations and extended special appreciation to several committee members who had met with her to discuss the proposed regulations.

The following individuals addressed the Board:
 Nancy Spradling, California School Nurses Association
 Pat Klotz, California Parent Teacher Association
 Larry Komar
 Martha Zaragoza Diaz, Californians Together Coalition
 Lisa Ramer, Association of California School Administrators
 Richard Jones, Healdsburg Unified School District

Noting the importance of the issues raised by the speakers, Ms. Joseph remarked that the State Board does not have the authority to go beyond what the law requires. She stated that the proposed regulations (with the suggested revisions) make very clear what kind of injections that the schools’ staff could do.

- ACTION: Mrs. Joseph moved that the State Board approve the Notice of Proposed Rulemaking for permanent regulations pertaining to the administration of medication to pupils at school with the inclusion of the “important but largely technical changes” set forth in a memorandum from State Board staff and with any technical adjustments that may be necessary in keeping with the Administrative Procedure Act. Mr. Fisher seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 26	No Child Left Behind (NCLB) Act: Including, but not Limited to, Update on NCLB and Reading First Implementation.	INFORMATION ACTION
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Mr. Whitmore reported that the AB 312 NCLB Liaison Team would be meeting the next day (November 15, 2002). The role of the Liaison Team is to advise the Superintendent and the Board.

Mr. Whitmore informed the Board that there were issues brewing about the definition of “Persistently Dangerous Schools” as defined in the state’s consolidated application. The USDE has now provided draft guidelines for the definition. Once the final guidelines are available, the Department will bring a new proposed definition to the Board.

Ms. Belisle reported on the California team that attended the NCLB conference in Colorado. She noted that she had brought back information from the conference and would make it available to Board members who would like to see it.

No action was taken on this item.

ITEM 27	Recommended Reading First LEA Subgrant applications submitted in Round One for funding.	INFORMATION ACTION
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Terry Emmett, Professional Development and Instructional Leadership Division, presented the list of recommended grant applications for the Reading First Grant Program to the State Board for approval.

Mrs. Joseph acknowledged the hard work by the Department staff, Ms. Steentofte, and Ms. Emmett. She commented on the sensible procedures for the application review and recommended the process be used for other reviews.

- ACTION: Mrs. Joseph moved that the State Board approve the subgrant applications as recommended by staff. Ms. Lee seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 28	Process for Monitoring Supplemental Educational Service Providers required by Section 1116(e) of No Child Left Behind (NCLB) Act of 2002.	INFORMATION
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Hanna Walker, Specialized Programs Division, presented the Department’s process for review of supplemental educational service providers. She explained that supplemental services are tutorial services to individual students provided under NCLB.

President Hastings added that under NCLB, the provision of supplemental services is one of several consequences for underperforming schools. Supplemental services are the most practical option among the consequences. We should focus on ensuring the providers are offering effective tutorial services. Mrs. Joseph commented that it is important that providers are using the adopted instructional materials that are connected to what the student is using during regular school hours.

President Hastings asked for copies of the survey forms. Ms. Walker agreed to provide the surveys after they are developed.

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No action was taken on this information only item.

ITEM 29	No Child Left Behind (NCLB) Accountability Plan.	INFORMATION ACTION
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Bill Padia, Policy and Evaluation Division, recommended that the State Board take action on several issues that have been previously discussed.

President Hastings remarked that there is a tension between Department staff's need for Board decisions to move ahead and the creation, in urgency legislation, of the AB 312 NCLB Liaison Team, which would be meeting for the first time the next day. He stated that he would like the Liaison Team's input prior to taking any action.

President Hastings raised the question of how to achieve a higher participation rate on the STAR tests with the parental choice of opting-out children from testing. He inquired whether parents had an "opt out" option in other states. Mr. Padia responded that other states do not have parental waivers.

President Hastings asked what happens if a school doesn't have a 95 percent participation rate under the NCLB. Mr. Padia responded that under NCLB, the school would not meet Adequate Yearly Progress (AYP) requirements for that year. If the school doesn't meet the AYP requirement for two years, it becomes a Program Improvement school and faces intervention.

Mr. Padia summarized the four Academic Performance Index (API)/AYP options presented in the agenda materials. Option 3 would involve separate reporting of API and AYP data. Option 4 would maintain the current API methodology. Under Option 4, there would be no separate reporting of API and AYP data, and two additional subgroups would be added to the API. With Option 4, some changes could be made to make the API reporting more like the AYP, such as adding the subgroups and modifying the target structure and target goals. Mr. Padia noted that several other states plan to come in with their index systems intact.

Mr. Padia referred to the California NCLB projections chart indicating the estimated percent of schools that would not meet their AYP targets. He noted that under Option 1 and Option 3 in the 12th year, 98 percent of schools would not meet their target AYP. Under Option 2, by the 12th year, 52 percent of the schools would not meet the AYP target. Under Option 4, 41 percent of schools would not meet their target in the 12th year.

President Hastings commented that under Option 2 and Option 4, a school would meet its AYP target if it had an 800 API. Under Options 1 and 3, all students must be at the proficient level for a school to meet its AYP targets. President Hastings drew the Board's attention to the School Improvement Matrix for NCLB under Option 3. The purpose of the matrix is to provide an example for establishing school improvement priority based on a combination of AYP and API criteria. Ms. Tacheny commented this matrix is just a beginning for addressing the questions of how to identify low-performing schools and what to do with those schools once they are identified.

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Mr. Padia reported that the Public Schools Accountability Act (PSAA) Advisory Committee supports Option 4. He added that it would be very helpful to the Department staff if the options could be narrowed to one or two options.

Mrs. Ichinaga stated that she prefers the simplicity of Option 4. She expressed concern about the impact of having an estimated 98 percent of schools in Program Improvement by the 12th year.

Mr. Nuñez mentioned that he also had attended the NCLB conference in Colorado. He stated that we do need to make some changes in our accountability system to satisfy NCLB. He commented that he wants the AYP to be as transparent as possible. He said that he would prefer to keep the API system, but noted that Option 4 requires “tweaking.”

Ms. Belisle reminded the State Board that the state has never been in compliance with the Elementary and Secondary Education Act (ESEA), and it barely got a timeline waiver last year. We must act in good faith. She stated that mathematics and English-language arts data must be stand-alone, not reported as one composite score. This is not negotiable. Ms. Belisle advised that New York and North Carolina are talking with the USDE. California also should be having conversations with the USDE. New York and North Carolina are also index states, and they are good company to be in.

Ms. Tacheny commended Mr. Padia on his outstanding work. She commented that California is not the same as other states. We are the state with the most students. Ms. Tacheny said that she thinks Option 4 is a non-starter. The USDE wants California to change, and Option 4 sends the wrong message about what California is doing. President Hastings said the question is whether Option 4 is a viable option.

Mr. Nuñez stated that he thinks we have to stand on good policy, explain why the API system should be maintained, and show how it can be fine-tuned. We have worked hard on the API over the last several years. He commented that he hopes there are conversations with the USDE about maintaining the API system.

Mr. Hill commented that the federal government is pretty good at picking off states. He noted that the flow of information from the USDE is problematic. The USDE publishes drafts of guidelines, but not the final guidelines. The USDE gives no feedback, nothing in writing. Mr. Hill suggested before changing our system, we should have a clear response to the proposals to keep our system intact.

Mr. Fisher asked who has been doing the negotiating with the USDE, as it is important for the State Board to know who those individuals are. Mr. Warren responded that Department staff is in discussions with USDE staff.

Mrs. Joseph expressed interest in the concept of Option 3. Ms. Tacheny explained that the National Business Roundtable developed the concept of Option 3. President Hastings remarked it is important to get a national response on whether supplemental services, school choice, and other federal interventions would be required for those schools not meeting AYP but meeting API. If they were, then AYP would still be driving the system.

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Mr. Padia drew the Board’s attention to the several alternatives for defining the minimum number of students required for a subgroup. President Hastings pointed out that more subgroups make it harder for the schools to achieve the API and AYP targets. He suggested that 100 or more students be required for a subgroup, as proposed in Alternative 2. Mr. Padia reported that the PSAA Advisory Committee recommends Alternative 3A (50 or more students or more than 15 percent). President Hastings said that he would be satisfied with 2A (50 or more students). Mr. Padia noted that the issue of mobile students must be considered.

Mr. Nuñez commented that it seems the Board is having a lot of conversations about Options 3 and 4. He said that he would like more information about those options at the next meeting.

Lunch Break: President Hastings called for the lunch break at 12:16 p.m. Vice President Nuñez reconvened the meeting at 1:27 p.m. (Vice President Nuñez presided over the remainder of the meeting).

The following speakers addressed the Board:
Geno Flores, Long Beach Unified School District
Bill Chavez, Association of Urban School Districts

No action was taken on this item.

ITEM 30	For information: Recommendations from the Superintendent’s Advisory Committee for the Public Schools Accountability Act (PSAA) pursuant to the review and approval process for locally-adopted pre-post tests of achievement to serve as additional indicators of students progress in the Alternative Schools Accountability Model (ASAM).	INFORMATION
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Sue Bennett, Educational Options, introduced Alternative Schools Accountability Model (ASAM) Committee Co-Chairs Lynn Wilen and Vicki Barber.

Ms. Wilen reported that the first year results of the ASAM were in and she is very pleased with how the accountability model is working. Locally adopted pre/post tests will be an additional indicator of student progress. WestEd reviewed assessments instruments for possible use by local educational agencies.

Ms. Barber reported that in evaluating the assessment instruments, WestEd reviewed the technical accuracy, alignment to standards, and the appropriateness of the test for the student population. She noted that they set a high bar for these reviews and only four assessment instruments are recommended for approval. Additional information is required on some of the instruments, and the ASAM Committee wants to continue the review progress. It is hoped that additional assessment instruments will be identified.

Stan Rabinowitz, WestEd, explained that the review was undertaken by a committee of test experts, administrators, and teachers.

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Mr. Nuñez thanked the co-chairs for their work and Mr. Rabinowitz for his report.

Mrs. Joseph asked if Mr. Rabinowitz was aware of the list of reading tests that the Reading Partnership had reviewed and also asked to see the tests WestEd was recommending.

No action was taken on this information only item.

ITEM 31	Approval of 2002-2003 Consolidated Applications.	ACTION
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Marsha Bedwell, School and District Accountability, reported that ten consolidated applications were before the State Board for approval.

- ACTION: Mr. Fisher moved that the State Board approve the 2002-2003 Consolidated Applications presented in the item as recommended by CDE staff. Mr. Abernethy seconded the motion. The motion was approved by unanimous vote of the members present.

WAIVERS: CONSENT, WITHDRAWN, PROPOSED CONSENT, AND NON-CONSENT

CONSENT WAIVERS (WC-1 through WC-8)

INSTRUCTIONAL MATERIALS SUFFICIENCY (Audit Findings)

ITEM WC-1	Request by one district and one county office of education for a retroactive waiver of <i>Education Code</i> (EC) Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. These districts have an audit finding for the 2001-2002 fiscal year that they 1) failed to hold the public hearing, 2) or failed to properly notice (10 days) the public hearing, and/or 3) failed to post the notice in the required three public places. CDSIS-2-9-2002 Del Norte County Office of Education CDSIS-3-9-2002 Del Norte County Unified School District (Recommended for APPROVAL)	ACTION
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HIGH SCHOOL EXIT EXAMINATION (special education students)

ITEM WC-2	Request by Torrance Unified School District to waive <i>Education Code</i> Section 60851(a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for two special education students. #013 and #015 CDSIS- 4-8-2002 (Recommended for APPROVAL)	ACTION
ITEM WC-3	Request by Oroville Union High School District to waive <i>Education Code</i> Section 60851(a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for eight special education students. #018, #019, #020, #021, #022, #023, #024, and #025. CDSIS- 4-9-2002 (Recommended for APPROVAL)	ACTION
ITEM WC-4	Request by San Ramon Valley Unified School District to waive <i>Education Code</i> Section 60851(a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for two special education students. #027 and #028 CDSIS- 5-9-2002 (Recommended for APPROVAL)	ACTION
ITEM WC-5	Request by Ojai Unified School District to waive <i>Education Code</i> Section 60851(a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for one special education student. #037 CDSIS- 9-9-2002 (Recommended for APPROVAL)	ACTION
ITEM WC-6	Request by Vista Unified School District to waive <i>Education Code</i> Section 60851(a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for one special education student. #038 CDSIS- 14-9-2002 (Recommended for APPROVAL)	ACTION

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ITEM WC-7	Request by Fremont Union High School District to waive <i>Education Code</i> section 60851(a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for three special education students. #041, #042, and #043 CDSIS- 12-9-2002 (Recommended for APPROVAL)	ACTION
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STATE MEAL MANDATE (Saturday school session)

ITEM WC-8	Request by Wheatland Unified School District to waive <i>Education Code</i> section 49550, the State Meal Mandate during the Saturday school session. CDSIS-13-9-2002 (Recommended for APPROVAL) <i>Education Code</i> section 33051(c) will apply	ACTION
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Judy Pinegar, Waiver Office, reported there were no changes or corrections to the consent waivers.

- ACTION: Mr. Fisher moved that the requests in Items WC-1 through WC-8 be approved as recommended by CDE staff. The motion recognized that *Education Code* Section 33051(c) would apply to the request in Item W-8. Mr. Abernethy seconded the motion. The motion was approved by unanimous vote of the members present.

WITHDRAWN WAIVER
SCHOOL IMPROVEMENT PROGRAM (SIP)

ITEM W-16	Request by Culver City Unified School District to waive <i>Education Code</i> Sections 52046 and 62002, in order to share existing School Improvement Program (SIP) funds with the Culver Park Continuation High School now that SB 1882 Professional Development funds are no longer provided by the state. CDSIS-14-8-2002 (Recommended for APPROVAL)	ACTION
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Ms. Pinegar announced that W-16 had been withdrawn.

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PROPOSED CONSENT WAIVERS (W-4 through W-14)

COMMUNITY DAY (collocation)

ITEM W-4	Request by Paramount Unified School District (PUSD) for renewal of a waiver of <i>Education Code</i> Section 48661(a) relating to the collocation of the PUSD Community Day School and the Michelson Continuation High School on the Paramount Adult Education Center site. CDSIS-8-9-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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ITEM W-5	Request by the Huntington Beach Union High School District for a waiver of <i>Education Code</i> Section 48661(a) relating to the temporary collocation of a Huntington Beach Union High School District Community Day School on the same site as Valley Vista Continuation High School. CDSIS-11-9-2002 (Recommended for APPROVAL)	ACTION
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EQUITY LENGTH OF TIME

ITEM W-6	Request by Paramount Unified School District to waive <i>Education Code</i> (EC) Section 37202, equity length of time requirement for kindergarten students at Wirtz School to allow full day kindergarten programs. CDSIS-17-9-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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HIGH SCHOOL EXIT EXAMINATION (special education students—special conditions)

ITEM W-7	Request by Madera Unified School District to waive <i>Education Code</i> Section 60851(a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for one special education student. #012 CDSIS- 2-8-2002 (Recommended for APPROVAL)	ACTION
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ITEM W-8	Request by Fremont Union High School District to waive <i>Education Code</i> Section 60851(a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for one special education student. #017 CDSIS- 8-8-2002 (Recommended for APPROVAL)	ACTION
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ITEM W-9	Request by Glenn County Office of Education to waive <i>Education Code</i> Section 60851(a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for three special education students. #029, #030 and #031 CDSIS- 6-9-2-2002 (Recommended for APPROVAL)	ACTION
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ITEM W-10	Request by Sweetwater Union High School District to waive <i>Education Code</i> Section 60851(a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for five special education students. #032, #033, #034, #035, and #036 CDSIS- 10-9-2002 (Recommended for APPROVAL)	ACTION
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INSTRUCTIONAL MATERIALS SUFFICIENCY (Audit Findings)

ITEM W-11	Request by Solano County Office of Education for a retroactive waiver of <i>Education Code</i> (EC) Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. This agency has an audit finding for the 2000-2001 fiscal year that they failed to hold the public hearing. (Second year of funding.) CDSIS-2-10-2002 (Recommended for APPROVAL)	ACTION
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NONPUBLIC SCHOOL/AGENCY (Child Specific—Out-of-State)

ITEM W-12	Request by Roseville Joint Union High School District to waive <i>Education Code</i> (EC) Section 56366.1(a), certification requirement for an uncertified nonpublic school, Boulder Creek Academy, located in Bonners Ferry, Idaho to provide services for one special education student, Lana N. CDSIS-23-7-2002 (Recommended for APPROVAL)	ACTION
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ITEM W-13	Request by Pacific Grove Unified School District to waive <i>Education Code</i> (EC) Section 56366.1(a), certification for an uncertified nonpublic school, Cross Creek Manor located in LaVerkin, Utah, to provide services to one special education student, Wendy D. CDSIS-11-8-2002 (Recommended for APPROVAL)	ACTION
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NONPUBLIC SCHOOL/AGENCY (Child Specific)

ITEM W-14	Request by Old Adobe School District to waive <i>Education Code</i> Section 56366.1(a), the certification requirement for an uncertified nonpublic school Oak Hill Center, to provide services to one special education student Samantha H. CDSIS-55-12-2001 (Recommended for APPROVAL)	ACTION
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Ms. Pinegar explained that W-7, W-8, W-9, W-10 were not placed on the list of consent waivers because they had information missing when they were originally submitted. The missing information has now been provided to the Department’s satisfaction.

- ACTION: Mr. Abernethy moved that the requests in Items W-4 through W-14 be approved as recommended by CDE staff. The motion incorporated approval of the conditions recommended for Items W-4 and W-6. The motion recognized that additional information had been received regarding the requests in Items W-7 through W-10 bringing those requests into accord with the guidelines pertaining to California High School Exit Examination waivers. Mr. Fisher seconded the motion. The motion was approved by unanimous vote of the members present.

NON-CONSENT WAIVERS (W-1, W-2, W-3, and W-15)

FEDERAL NCLB REQUIREMENT FOR SUPPLEMENTAL SERVICES

ITEM W-1	Request by districts for a waiver of NCLB, Title I, Part A, Section 1116(e), the requirement to provide “supplemental services” to eligible students. CDSIS—To be determined (Recommended for)	ACTION
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Ms. Pinegar noted that Item W-1 is the first request for a waiver of supplemental services to come before the Board. She reported that the Department recommendation was to approve the waiver request on the condition that the district apply to be a supplemental service provider.

- ACTION: Ms. Lee moved that the State Board approve a request from the Big Pines Unified School District for an exemption from the supplemental services requirement (until June 30, 2003) on the condition that the district complete the application process to become a supplemental services provider as soon as possible, as recommended by CDE staff in the supplement to Item W-1. Mrs. Joseph seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mr. Fisher was not present when the vote was taken.

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ACADEMIC PERFORMANCE INDEX (adult testing irregularities)

ITEM W-2	Healdsburg Unified School District (HUSD) Academic Performance Index (API) Waiver. Specifically, the HUSD requests a waiver of Title 5, CCR, Section 1032(d) (1) to allow Foss Creek Elementary School to be given a valid API (no awards) for the current year (2002), in spite of "adult testing irregularities." CDSIS-21-7-2002 (Recommended for DENIAL per <i>Education Code</i> Section 33051(a) (1), the educational needs of the pupils are not adequately addressed)	ACTION
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Ms. Pinegar reminded the Board that this request for an API waiver had been brought before then twice before. Patrick Chladek, Policy and Evaluation Unit, presented the Department's recommendation on Item W-2.

The following individual addressed the Board:
Richard Jones, Healdsburg Unified School District

Mr. Nuñez asked if the district had experienced similar circumstances in previous years. Mr. Jones informed the Board that the previous year the same school had a teacher whose students had a very high number of erasures; subsequently the teacher left the school.

- ACTION: Ms. Tacheny moved that the State Board approve the request in Item W-2. Mrs. Joseph seconded the motion. The motion was approved by a vote of 6-1. Mrs. Ichinaga voted against the motion. In addition to the absent members, Mr. Fisher was not present when the vote was taken.

BONDED INDEBTEDNESS

ITEM W-3	Request by the West Contra Costa Unified School District to waive <i>Education Code</i> Section 15106, to increase its bonding limit from 2.5% (for unified districts) to a maximum of 3.0% of assessed valuation of taxable property. CDSIS-7-0-2002 (Recommended for APPROVAL WITH CONDITIONS) <i>Education Code</i> Section 33051(c) will apply	ACTION
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Ms. Pinegar reported on the technical corrections that had been made in response to the questions raised by Board staff. She noted that the state-appointed fiscal trustee had written to express his support for the waiver and the condition requiring his review of any bond issuance to ensure that it would not exceed the 3.0 percent level.

Scott Hannan, School Fiscal Services Division, briefly explained the conditions of approval for this waiver request.

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- ACTION: Mr. Abernethy moved that the State Board approve the request in Item W-3 with the incorporation of the conditions recommended by CDE staff. The motion recognized that the provisions of Education Code Section 33051(c) would apply to the request; however, the waiver is limited by the conditions to the issuance of bonds authorized by local voters in June 1998, November 2000, and March 2002. Ms. Tacheney seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mr. Fisher was not present when the vote was taken.

PROGRAM FOR DROPOUTS—EDUCATIONAL CLINICS

ITEM W-15	Request by the San Diego Unified School District to waive Education Code Section 58551(d)(3) regarding the “Eligible school dropout” requirement which, specifies that a student has not attended a school within a period of 45 days prior to enrollment in the Educational Clinic Program. CDSIS-9-8-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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Ms. Pinegar introduced Margarita Garcia, School Fiscal Services Division, who presented a summary of key issues related to this waiver request.

- ACTION: Mr. Abernethy moved that the State Board approve the request in Item W-15 with the incorporation of the conditions recommended by CDE staff (including the oral clarification with respect to “unexcused” absences). Mrs. Ichinaga seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mr. Fisher was not present when the vote was taken.

ITEM 32	Appeals from Decisions Regarding a Petition to Transfer Territory from the Center Unified School District (Sacramento County) to the Dry Creek Joint Elementary School District and Roseville Joint Union High School District (Placer County).	ACTION
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Larry Shirey, School Fiscal Services Division, presented the Department’s recommendation to adopt the resolution to deny the appeal of Center Unified School District and to uphold the appeal of the chief petitioners. He noted that the involved districts had resolved the issue locally.

- ACTION: Mr. Abernethy moved that the State Board uphold the appeal of the chief petitioners and deny the appeal of the Center Unified School District by adoption of the proposed resolution to that effect prepared by CDE staff. Ms. Lee seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mr. Fisher was not present when the vote was taken.

Announcement Regarding Item 6

Mr. Hastings reported that he had received new information on the CAT-6 test and the possible effects of the newly enacted Board policy on test accommodations that allows for all of the STAR tests to be administered as untimed tests. He stated that in the light of this new information, the Board may have to

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change the policy next month and that the field should consider that decision to be provisional. (See Item 6 in the minutes for Wednesday, November 13, 2002.)

Adjournment: Vice President Nunez adjourned the meeting at 2:06 p.m.