**CA DEPARTMENT OF EDUCATION**

**TONY THURMOND**

State Superintendent of Public Instruction

**CA STATE BOARD OF EDUCATION**

**LINDA DARLING-HAMMOND**

President

# NOTICE OF PROPOSED RULEMAKING

## AMENDMENTS TO CALIFORNIA CODE OF REGULATIONS, TITLE 5, REGARDING CALIFORNIA HIGH SCHOOL PROFICIENCY EXAMINATION (CHSPE)

Notice published August 11, 2023

**NOTICE IS HEREBY GIVEN** that the State Board of Education (SBE) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

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

### PUBLIC HEARING

California Department of Education (CDE) staff, on behalf of the SBE, will hold a virtual public hearing at 9:00 a.m. on September 26, 2023.

Any interested person may participate in the public hearing via Zoom meeting by logging in per the following instructions:

* Click the following link or paste the link to the browser to join the meeting and enter the passcode:

<https://us02web.zoom.us/j/84505129532>

Passcode: 137735

* To connect with audio only and no video, call one of the following telephone numbers and enter the meeting ID and password:

669-900-6833

213-338-8477

Meeting ID: 845 0512 9532

Passcode: 137735

For persons intending to attend the Zoom meeting, those persons may check their computers by:

* Clicking on the test link: <https://zoom.us/test>.
* For any issues regarding connecting with Zoom, go to <https://support.zoom.us/hc/en-us> for assistance.

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SBE requests, but does not require, that persons who make oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

### REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973,* the *Americans with Disabilities Act of 1990,* and the *Unruh Civil Rights Act,* any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Gita Raman, Assessment Development and Administration Division, 1430 N Street, Room 4409, Sacramento, CA, 95814; telephone, 916-319-0500. It is recommended that assistance be requested at least two weeks prior to the hearing.

Pursuant to Government Code section 11346.6(a)(3) and (b), because some of these regulations pertain to special education, the following provisions also apply:

Upon request from a person with a visual disability or other disability for which effective communication is required under state or federal law, the CDE shall provide that person a narrative description of the additions to, and deletions from, the regulations. The description shall identify each addition to or deletion from the regulations by reference to the subdivision, paragraph, subparagraph, clause, or subclause within the proposed regulation containing the addition or deletion. The description shall provide the express language proposed to be added to or deleted from the regulations and any portion of the surrounding language necessary to understand the change in a manner that allows for accurate translation by reading software used by the visually impaired.

The CDE shall provide the information described above within 10 business days, unless the CDE determines that compliance with this requirement would be impractical and notifies the requester of the date on which the information will be provided.

Notwithstanding any other law, if information is provided to a requester as described above, the CDE shall provide that requester at least 45 days from the date upon which the information was provided to the requester to submit a public comment regarding the proposed regulation. The CDE shall not take final action to adopt the regulation until the requester has submitted a public comment or the extended 45-day comment period expires, whichever occurs first.

### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Lorie Adame, Regulations Coordinator

Administrative Support and Regulations Adoption Unit

California Department of Education

1430 N Street, Room 5319

Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at 916-322-2549 or by email to regcomments@cde.ca.gov.

Comments must be received by the Regulations Coordinator prior to or on September 26, 2023. All written comments received by CDE staff during the public comment period are subject to disclosure under the Public Records Act.

### AUTHORITY AND REFERENCE

Authority: Sections 48410 and 48412, Education Code

References: Sections 48410 and 48412, Education Code

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Education Code (EC) section 48412 provides for a program of assessment that allows a student 16 years of age or older, who is enrolled in the second semester of their sophomore year, to “have their proficiency in basic skills taught in public high schools verified according to criteria established by the department.” EC section 48412 further states that the CDE shall develop the standards of competency in basic skills and shall administer the tests annually. Upon successfully passing the examination, the student shall receive a certificate of proficiency, awarded by the SBE, that is equivalent to a California high school diploma.

#### *Policy Statement Overview*

New definitions are needed to align title 5 of the California Code of Regulations (5 CCR) section 11520 with the eligibility criteria in EC section 48412(a)(1) and to clarify that payment is required at the time of the examination registration or when requesting services and that administration fees are comprised of different costs.

The objective for the proposed definition for “eligibility” is to clarify that the test will be administered to students who are at least in their second semester of their sophomore year of high school.

In EC section 48412(c)(1), “fee” is defined to be “an amount sufficient to recover the costs” to administer the test. This amount is a combination of costs, which includes vendor costs, testing center costs, and state administration costs, as well as the costs for additional score reports or certificates, if needed.

#### *Anticipated Benefits of the Proposed Regulation*

The benefits of using these definitions are to provide the public consistency and clarity regarding the criteria for eligibility to take a test of proficiency, and what costs are included in the fee charged to the test taker to register for an examination.

#### *Evaluation of Inconsistency/Incompatibility with Existing State Regulations*

An evaluation of the proposed regulations has determined they are not inconsistent/incompatible with existing regulations, pursuant to Government Code section 11346.5(a)(3)(D). After conducting a review for any regulations that would relate to or affect this area of law, the SBE has concluded that these are the only regulations that concern the CHSPE regulations.

### DISCLOSURES REGARDING THE PROPOSED ACTION/ FISCAL IMPACT

The SBE has made the following initial determinations:

*Mandated by federal law or regulations*: No

*Other statutory requirements*: There are no other matters as are prescribed by statute applicable to the specific state agency or to any specific regulations or class of regulations.

*Mandate on local agencies and school districts*: No

*Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code*: No

*Cost or savings to any state agency*: No

*Other non-discretionary costs or savings imposed on local agencies, including local educational agencies*: No

*Costs or savings in federal funding to the state*: N/A

*Effect on housing costs*: None

*Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states*: No

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

*Report required*: The proposed regulations do not require a report to be made.

*Effect on small businesses*: The proposed regulations would not have an effect on any small business because they are designed to address students’ eligibility for the high school proficiency exam and will not expand or eliminate small businesses currently doing business within the State of California.

### RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

***Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment – Gov. Code Section 11346.5(a)(10):***

The SBE concludes that it is unlikely that these proposed regulations will: 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Benefits of the Proposed Action: The proposed regulations will benefit the educational options of California’s residents and will not adversely affect the welfare of California residents, worker safety or the State’s environment.

### CONSIDERATION OF ALTERNATIVES

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

The SBE invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

### CONTACT PERSONS

Inquiries concerning the content of these proposed regulations should be directed to:

Gita Raman, Education Programs Consultant

Assessment Development and Administration Division

California Department of Education

1430 N Street, Room 4409

Sacramento, CA 95814

Telephone: 916-319-0500

Email: graman@cde.ca.gov

Inquiries concerning the regulatory process may be directed to Lorie Adame, Regulations Coordinator, or the backup contact person, Gerri White. The Regulations Coordinator and the backup contact person may be reached by email at regulations@cde.ca.gov or by telephone at 916-319-0860.

### AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND INFORMATION

As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations, the Initial Statement of Reasons (ISOR), the agenda and a recording of the SBE meeting where the SBE approved commencement of this rulemaking activity, and Fiscal and Economic Impact Statement (STD. 399). These documents upon which the proposed action is based may be obtained upon request from the Regulations Coordinator. In addition, this Notice, the text of the proposed regulations and the ISOR may also be viewed on CDE’s Proposed Rulemaking and Regulations web page at <http://www.cde.ca.gov/re/lr/rr/>.

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the SBE may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available to the public for at least 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposed regulations. The SBE will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

You may obtain a copy of the Final Statement of Reasons, once it has been finalized, by making a written request to the Regulations Coordinator.

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Regulations Coordinator.

### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications highlighted, as well as the Final Statement of Reasons, when completed, and modified text, if any, can be accessed via CDE’s Proposed Rulemaking and Regulations web page at <http://www.cde.ca.gov/re/lr/rr/>.

05-01-2023 [California Department of Education]