

FINAL MINUTES
State Board of Education
May 29-30, 2002

Thursday, May 30, 2002

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

Members Present

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

Members Absent

Robert J. Abernethy
Susan Hammer
Vicki Reynolds

Call to Order

President Hastings called the meeting to order at 8:10 a.m.

Salute to the Flag

Suzanne Tacheny led the Board, staff, and audience in the Pledge of Allegiance.

[Note: The agenda items were heard in the following order: 18, 24-26, 29, 27, 30-32, 21, 22, 20, 41, 28, 33-40, 42-44, Waivers, 45-46. The items appear in these minutes in that order.]

ITEM 18	Purchasing non-adopted K-8 instructional materials with restricted state funds.	INFORMATION ACTION
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Mr. Geeting advised the Board that this issue was placed on the agenda in part as a response to a letter from Assembly Member Fran Pavley. The Board staff recommends directing the Curriculum Commission to consider the development of a petition process to allow districts to purchase non-adopted materials.

The following individuals addressed the Board:

Bob Lucas, Delta Education
Peggy Barber, Los Angeles USD

- ACTION: Mrs. Joseph moved that the State Board request that the Curriculum Development and Supplemental Materials Commission review and develop recommendations as may be necessary

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to the petition process established under Education Code Section 60200(g) in order that this process may be used to seek authorization to purchase non-adopted instructional materials without regard to funding source, provided the curriculum and instruction in core subjects that is provided by applying districts is fully aligned with the content standards. It was recognized that there might be legal impediments to such a process, but that a full legal analysis could be conducted within the context of the Curriculum Commission’s review, including any statutory changes that may be enacted during the current legislative session. Mr. Jenkins seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Ms. Goncalves was not present with the vote was taken.

Judy Pinegar, Waiver Office, informed the Board that she has had legal advice that the proposal to use the petition process to waive Schiff-Bustamante is not legal. Ms. Cabatic stated that she has written a legal opinion and will ensure that the Department's legal concerns are addressed.

Ms. Belisle commented that there is some disagreement on which approach should be taken and that she will work with the Department’s legal staff as the Curriculum Commission develops the recommendations.

ITEM 24	Assignment of Numbers for Charter School Petitions.	ACTION
ITEM 25	Approval of Providers of Professional Development in Mathematics (AB 1331).	ACTION
ITEM 26	New West Charter Middle School (Charter School #431). Modification of the State Board’s Conditional Approval of the Petition.	INFORMATION ACTION
ITEM 29	Approval of 2001-2002 Consolidated Applications.	ACTION

President Hastings asked for a motion on the proposed consent items, Items 24 through 29.

- ACTION: Mr. Jenkins initially moved that the State Board approve staff recommendations with respect to Items 24, 25, 26, 27, 28, and 29. Subsequently, by consensus, the motion was clarified to exclude Item 27 (which had been withdrawn) and Item 28 (which was considered later in the meeting). Ms. Tacheny seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Ms. Goncalves and Mr. Fisher were not present with the vote was taken.

ITEM 27	Advisory Commission on Charter Schools: Appointment of Member.	INFORMATION ACTION
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This item was withdrawn. No nominee was recommended for the position.

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ITEM 30	Legislative Update: Including, but not limited to, the list of bills that are currently being tracked.	INFORMATION ACTION
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Ms. Hoffman gave a brief the update, noting that the budget bill would be up in both Houses that day. [Attachment 11, Legislative Item.] She informed the Board that Senator Alpert has a bill, SB 1453, to open the discussion on student identifiers. She added that she would put the SB 1453 on the Board's list of priority bills.

No action was taken on this item.

ITEM 31	The 2002 Base Academic Performance Index (API): Integrating the California High School Exit Examination (CAHSEE) Results in the Academic Performance Index (API).	INFORMATION ACTION
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Bill Padia, Policy and Evaluation Division, introduced Ed Haertel, member of the Public Schools Accountability Act (PSAA) Advisory Committee and co-chair of the Advisory Committee's Technical Design Group. Mr. Haertel presented the PSAA Advisory Committee's recommendation for integrating the CAHSEE into the Academic Performance Index (API). The proposed calculation method is to count all 10th grade results and count 11th and 12th grade passing scores. For 2002 only, the 9th graders who passed the test will be counted in the API.

Ms. Tacheny asked about weighting the test (1000 for passing scores/200 for failing score) and whether it would artificially increase the API. Mr. Haertel responded that the CAHSEE would be only two components of API (the mathematics and the English language arts exams) and the scale calibration factor adjusts for new factors coming into the API. He further explained the recommendation for the weighting of the California Standards Tests (CSTs) at 56 percent, the NRT (nationally-normed test) at 29 percent, and the CAHSEE test at 15 percent.

President Hastings asked if continuity was a factor in the weighting of subject areas, including science. Mr. Haertel responded that continuity was a factor as well, as the need for a new science test under the federal legislation.

President Hastings asked if it would cause a problem if the decision on the science tests in the API were delayed by one month. Mr. Padia indicated that science was not affected in this decision, which is how to integrate the CAHSEE into the API.

PSAA Advisory Committee Co-Chair Holly Jacobson commented that the API is getting more complex. The PSAA Advisory Committee is very comfortable with these recommendations. She expressed appreciation for the support she receives from staff and the Technical Design Group.

Mrs. Joseph stated that she is concerned that the three percent weighting of the mathematics NRT would make it seem unimportant. Mr. Haertel commented that NRT gives information about how our students are doing in comparison to the nation. The NRT's importance is not related to its weighting in API.

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Mrs. Joseph said that the Board policy is to continue with the NRT for mathematics, so she is concerned about the weighting. Ms. Tacheny mentioned her concern about the relative weight of the science NRT of 20 percent when the mathematics NRT is only three percent.

Ms. Jacobson explained that the Advisory Committee wanted the CAHSEE to have more weight than the NRT in mathematics. The science 20 percent decision was based on stability, but the Advisory Committee is also looking ahead to future integration of the science test required by NCLB.

Superintendent Eastin stated that the CAHSEE is more important as a factor in the API than the NRT. She remarked that we want to drive people towards the CST and especially the CAHSEE. The CAHSEE is a signal to the business community that high school students are prepared for employment.

Mrs. Joseph commented that she agrees with the Superintendent about the relative importance of the standards test, but is concerned that three percent is so minimal. She added that she thinks that ultimately the science test will be a CST. Ms. Tacheny stated that weighting science at 20 percent makes it as important as mathematics, which is also weighted at 20 percent.

President Hastings commented that, in the long run, the Board should discuss the subject weighting of 40 percent English-language arts, 20 percent mathematics, 20 percent science, and 20 percent social science. Mr. Fisher stated that he thinks 20 percent is too low for mathematics and that he likes Option 4 in the PSAA Advisory Committee's report.

Mr. Nuñez said that he likes that the weighting emphasizes the CST. He likes that it signals the importance of standards-based mathematics. He commented that the integrated science test, after discussion yesterday, seems a long way away and that he is wrestling with the 20 percent weight for science in the API. Ms. Jacobson observed that by weighting science at 20 percent, it communicates that science is important. She stressed the need for consistency, so that all schools would be clear on the focus. As factors are added to the API, the percentages will change. Mrs. Ichinaga stated that social science should not have as much weight as mathematics.

President Hastings summarized that the Board has two options. It can adopt the recommendations and leave subject weighting alone or it can consider changing the weighting. If the Board is going to consider changing the weights, it should defer the decision so that the Board can hear public comments. He remarked that the Board does not want to change the subject mix now and then change it again three years later.

Mr. Haertel suggested that 20 percent for science would sound better if we said it was 5 percent biology, 5 percent chemistry, 5 percent physics, and 5 percent earth science. He stated his preference is to not tinker with the subject weights as they have been one of the constants in the API. Mrs. Joseph said that changing the weights is difficult for the field.

Superintendent Eastin recommended keeping in mind this is a high school API and we require students to take certain courses. We are trying to have a balance between what are students required to take and

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the API. It is important to look at what we require students to take. The recommendation is the result of many hours of work by wonderful people.

Ms. Goncalves inquired why the CAHSEE was weighted at 15 percent of the high school API. President Hastings responded that it is a policy decision. One point to consider is that the CAHSEE is only counted once, but the standards tests are given every year. Ms. Tacheny also questioned the 15 percent weighting of the CAHSEE, given its importance to students. Mr. Haertel noted that the CST mathematics is more rigorous than the CAHSEE math test. Mr. Fisher recommended increasing the weighting of mathematics.

Mr. Nuñez commented that it is important to think about what we are communicating to the field, the signals we send to schools. He added that he hoped the Board would not make any changes in subject weighting at this meeting.

Mr. Padia informed the Board that the PSAA is not meeting until July and, therefore, could not make a recommendation until the September Board meeting.

Ms. Tacheny stated she was ready to move the recommendation from the PSAA Advisory Committee.

- MOTION FAILS: Ms. Tacheny moved that the State Board approve the recommendations for incorporation of California High School Exit Examination results in the Academic Performance Index as proposed by the Public Schools Accountability Act Advisory Committee. Mr. Nuñez seconded the motion. The motion failed by a vote of 5-3. Mr. Fisher, Ms. Goncalves, and Mr. Hastings voted against the motion.

President Hasting directed that this matter return for consideration at the June 2002 meeting but with elaboration in the agenda notice that the State Board will also consider, and possibly modify, the relative weights assigned to the subject matter areas of language arts, mathematics, science, and social science within the API for only the high school level.

Mr. Padia requested direction from the Board as to what options should be brought back at the June meeting. President Hastings suggested that the 40-20-20-20 weighting be reviewed. Mr. Fisher recommended that Mr. Padia's staff work on Option 3.

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ITEM 32	The 2002 Base Academic Performance Index (API): Changes in the High School Social Science Indicator.	INFORMATION ACTION
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Mr. Haertel noted that the recommendation for Board action on the high school social science indicator is necessary because the history-social science nationally normed test would no longer be given in 2003. Also, the 9th grade test would now be given in the 8th grade.

- ACTION: Mr. Jenkins moved that the State Board approve the recommendation of the Public Schools Accountability Act Advisory Committee regarding accommodation of changes in the social science test for purposes of the 2002 Base API. Mrs. Joseph seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Ichinaga was not present when the vote was taken.

President Hastings noted that Mrs. Joseph had expressed concerns about the weighting of the NRT mathematics test. He asked Tom Boysen, former Education Commissioner in Kentucky, to comment generally on the NRT's role. Mr. Boysen informed the Board that he now serves on the PSAA Advisory Committee and works for the Los Angeles USD. Based on his experiences, he believes in a hybrid approach to assessment, one that utilizes a NRT and the California Standards Test. President Hastings thanked Mr. Boysen for his comments.

ITEM 21	The State Education Agency (SEA) is required by “No Child Left Behind (NCLB) Act of 2001” (Section 1116(e)) to adopt criteria for the selection of a statewide list of Supplemental Education Service Providers	INFORMATION ACTION
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Mr. Whitmore reported that the Department is moving quickly to get a first round of applications in an effort to accommodate year-round schools. The second round of applications will be timed for schools that begin classes in the fall. He worked with the Board staff to ensure that the criteria are aligned to the criteria for other intervention programs.

Ms. Belisle recommended additional criteria, to align these criteria to criteria the Board has established for other intervention programs. [Attachment 12, Criteria for Supplemental Services per NCLB Section 1116(E).]

President Hastings asked for an overview of the Supplemental Services. Mr. Whitmore responded that low-performing schools that are not improving will need to provide supplemental services to certain students. This is one of the sanctions for these schools. The criteria will be used to develop a Request for Proposals (RFP).

Mrs. Joseph stated that she liked what is here but wants to add to the second bullet, “Demonstrate knowledge of districts’ programs.” Mr. Whitmore noted that the reviewers would not know which districts the providers will be working with. Mrs. Joseph stated her interest in somehow heightening

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that providers must know or learn about the programs used in the pupil’s school. Mr. Whitmore replied that the requirement was in the RFP.

Ms. Belisle stated that it is important the criteria for providers that the Board approves on this list are the same as in the RFP.

- ACTION: Mr. Jenkins moved that the State Board adopt the criteria for the selection of a statewide list of supplemental education service providers with the incorporation of amendments as discussed at the meeting. The final criteria shall be approved by the State Superintendent and the Executive Director of the State Board. Ms. Tacheney seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 22	NCLB Implementation: Draft Definition of “Persistently Dangerous School.”	INFORMATION ACTION
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Mr. Whitmore reported that the State is required to certify in the NCLB application that we have a policy on “persistently dangerous schools.”

Bill White, Education and Support Systems Division, explained the definition for "persistently dangerous schools," including the three-year window, which was recommended by field experts.

Mr. Jenkins asked about the *Penal Code* sections cited in the policy, especially the code related to hate crime. Mr. White replied that the term “hate crime” is broadly defined by the law in the *Penal Code*.

- ACTION: Mr. Jenkins moved that the State Board approve the draft definition of “persistently dangerous school” as presented. Ms. Goncalves seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 20	Consolidated State Application for “No Child Left Behind (NCLB) Act of 2001.”	INFORMATION ACTION
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Mr. Whitmore reported that the federal government requirements have been a moving target. He acknowledged the efforts of Ms. Belisle who has spent untold hours reviewing drafts. Staff has held long meetings with Board liaisons. This application is the first presentation to the federal government on how California will implement the NCLB Act.

Mr. Whitmore informed the Board that the application includes the consolidated funding waiver request the Board acted on last month. In approving the application, the Board will adopt five performance goals required by the federal government and adopt a definition of highly qualified teachers.

Mr. Whitmore introduced Don Kairott and commented that Mr. Kairott is working 24 hours a day on the NCLB. Mr. Whitmore pointed out that the Title II, Even Start Title III, and Title IV sections of the application still need work.

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Mrs. Joseph recognized Mr. Kairott's efforts and hard work on the application. Mr. Kairott acknowledged the excellent work of the Department staff and thanked them for supporting his efforts. He noted that he has been working with the State Board staff and the Board liaisons. The application is built on State Board-adopted standards and textbooks and standards-aligned professional development. Mr. Kairott stated that the application is due June 12 and he expects to hear from the federal government in July about what changes need to be made in the application. This is a phased-in process. At different points in time, different information will be required. Mr. Kairott walked the Board through the draft application.

Mrs. Joseph asked about the assessment implications of NCLB. Ms. Belisle referred the Board to Attachment 3 in the agenda materials. By January 2003, the Board must have defined Adequate Yearly Progress (AYP). Under AYP for high schools, the federal government will look at mathematics, English-language arts, and science in grades 10 through 12 and the standards in those subjects that all students should know. The federal system is a conjunctive system so every additional indicator means that more schools would be identified as low-performing schools under the federal system. The PSAA Advisory Committee needs to consider this impact when making recommendations for the API. The federal system requires English learners to be identified as a subgroup. If possible, it would be wonderful if the state API and federal AYP indicators could be the same.

Mr. Nuñez inquired about the need for legislation. Ms. Belisle responded that legislation would be required for some things. For example, legislative action will be needed on the additional science testing that will be required. Mrs. Joseph mentioned that there are alternative assessment requirements in the NCLB and also under IDEA. Ms. Belisle replied that an alternative assessment is being developed—the CAPA—but that she does not know if the NCLB and IDEA are consistent.

Mr. Nuñez said that there are three areas he wanted to highlight for the Board—assessment, accountability, and data collection. He observed that we are simply not ready to meet the federal requirements in these areas. Ms. Belisle noted that the federal government requires high school graduation rates and we do not have good data for that. Mr. Nuñez requested that Ms. Belisle remind the Board in its future discussions of the API that we also have the AYP to consider.

The following individual addressed the Board:
Martha Diaz, CABE

Mr. Nuñez expressed his appreciation to Mr. Whitmore and Mr. Kairott for all of their work on the NCLB application.

Mr. Whitmore reported that the Department had received a letter from the Department of Finance and will work with them as the application is finalized. He said that the Board staff and liaison would continue to be involved in the finalizing of the application.

- ACTION: Mr. Nuñez moved that the State Board approve the “No Child Left Behind Act of 2001” (NCLB) application with the understanding that the following conditions would be further

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clarified in the application through a subsequent meeting with the State Board liaisons and be addressed fully as the plan is developed over this coming year:

- (1) All programs show a connection between the program and what the child is being taught in school;
- (2) To the extent possible, a regional system of support will be used to provide schools and districts with the necessary technical assistance for the delivery of programs, noting that this regional system currently includes such systems as the S-4 system, but that the application will indicate that this system and others will be subject to review and revision to work better through counties and improve the support the systems provide for schools and districts;
- (3) To the extent possible, the state will use existing programs and structures to implement NCLB; and
- (4) Technical revisions be made as recommended by staff and approved by the State Board liaisons, including the recommendations by the Department of Finance (as appropriate).

The motion took into account that the document includes the definition of “highly qualified teacher.” Ms. Tacheny seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 41	State Plan for the Education of Homeless Children and Youths Programs.	ACTION
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Mr. Whitmore requested that the Board approve this state plan for the education of homeless students.

- ACTION: Ms. Tacheny moved that the State Board authorize the CDE to prepare and submit a plan for the expenditure of funds under the McKinney-Vento Homeless Assistance Act. The plan will include responses to specific questions required by the United States Department of Education. Mr. Nuñez seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Ms. Goncalves was not present when the vote was taken.

ITEM 28	Determination of funding requests from charter schools pursuant to Senate Bill 740 (Chapter 892, Statutes of 2001), specifically Education Code Sections 47612.5 and 47634.2.	ACTION
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President Hastings explained that inadvertently he had not given the speakers on this item the opportunity to make their comments to the Board earlier in the meeting. The Board would hear their comments now and then take action on the item.

Mr. Geeting presented background information on the Advisory Commission on Charter School’s recommendations for the determination of funding of one specific charter school. [Attachment 13, Memos from G. Geeting on Charter School Determination of Funding, Supplements #1, #2, and #3.]

The following individuals addressed the Board:
Lisa Corr, legal counsel, Gold Rush Charter School

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Kathleen Hansen, teacher, Gold Rush Charter School
Jim Gallin, Gold Rush Charter School
David Patterson, CANEC

- ACTION: Mr. Nuñez moved that the State Board approve the recommendations regarding second 2001-02 determination of funding requests in keeping with the recommendations set forth in Supplements 1, 2, and 3 to this item. The motion recognized that the recommendation pertaining to the request from Gold Rush Charter School (#392) was a CDE staff recommendation and not a recommendation of the Advisory Commission on Charter Schools (which did not make a recommendation on that request). Mr. Fisher seconded the motion. The motion was approved by a vote of 7-1. Ms. Goncalves voted against the motion.

ITEM 33	Adoption of Permanent Regulations on Charter School Facilities.	INFORMATION ACTION
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Jan Sterling, School Fiscal Services Division, presented the item.

The following individual addressed the Board:
David Patterson, CANEC

- ACTION: Mr. Jenkins moved that the State Board approve the permanent regulations on charter school facilities as presented in the agenda item. Ms. Goncalves seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 34	Public Hearing and Adoption of Permanent Regulations Relating to Disputes Between School Districts and Charter Schools Regarding Facilities for Charter Schools.	INFORMATION ACTION PUBLIC HEARING
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Ms. Sterling noted that these regulations are concerned with dispute resolution. As written, these regulations require binding arbitration.

Mr. Geeting noted the changes in the regulations on charter school facilities (as proposed under Item 33) required conforming changes in these regulations. These conforming changes would require the regulations to be sent out for a 15-day public review period.

President Hastings opened the Public Hearing at 11:10 a.m.

The following individuals addressed the Board:
Dick Hamilton, CSBA
Melissa Chabron
David Patterson, CANEC
Peg Carew Toledo
Paul Minney
Ernie Silva, CASH

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Lisa Ramer, ACSA

President Hastings closed the Public Hearing at 11:26 a.m.

Mr. Fisher stated that if the Board wants to try to enact regulations in the spirit of Proposition 39, the regulations must include binding arbitration. Binding arbitration is fast, it is fair, and it is a very legitimate way to handle disputes. If the Board does not do this, school districts will take one position and the charter schools will take another position, which could result in a lawsuit.

President Hastings commented that either we do binding arbitration or these things end up in court. He suggested sending these regulations out for 15-day public review as just the binding arbitration portion of the proposed regulations.

Ms. Tacheny asked about the Board's authority, an issue raised by the speakers. Ms. Belisle replied she has read the cases and the statute that the speakers referred to. There is no clear-cut answer. She suggested separating out the binding arbitration regulations so that any legal action related to binding arbitration does not prevent the other sections of the regulations from going into effect.

- **ACTION:** Mr. Fisher moved that the State Board direct that the proposed regulations be modified by isolating that language pertaining to dispute resolution and, in lieu of proposing that this language be amended into a section of regulation containing other matters, to instead propose its establishment as a separate section of regulation. While a substantive change requiring that the amended proposal be sent out for 15-day public review in accordance with the Administrative Procedure Act, the effect (if adopted) of the regulations as amended will remain the same as set forth in the initial proposal. Ms. Goncalves seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 35	California High School Exit Examination (CAHSEE): Public Hearing on the CAHSEE Regulations.	INFORMATION ACTION PUBLIC HEARING
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Ms. Chaldek informed the Board that the Department is suggesting changes to the proposed regulations. She reported that 13 comments were received. Of those, 12 comments are about the make-up test date. The other comment was on the modifications.

President Hastings opened the Public Hearing at 11:40 a.m.

The following individual addressed the Board:
Lisa Ramer, ACSA

President Hastings closed the Public Hearing at 11:41 a.m.

- **ACTION:** Mr. Jenkins moved that the State Board direct that the proposed regulations be amended in accordance with the recommendation of CDE staff and sent out for 15-day public

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review in accordance with the Administrative Procedure Act. Ms. Goncalves seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 36	Permanent Regulations Regarding Classroom- and Nonclassroom-Based Instruction in Charter Schools: Implementation of the provisions of Senate Bill 740 (Chapter 892, Statutes of 2001).	INFORMATION ACTION PUBLIC HEARING
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Ms. Sterling reported that the proposed amendments to the permanent regulations are the Advisory Commission on Charter Schools' (ACCS) best efforts to implement SB 740. These proposed amendments are being recommended after much thoughtful discussion and public comment. [Attachment 14, Proposed Amendments to Regulations Regarding Classroom- and Nonclassroom-Based Instruction in Charter Schools.]

Mr. Kushner, ACCS Chair, stated that the Commission has worked hard and held many discussions regarding the regulations. Mr. Kushner recognized and thanked Eileen Cubanski, School Fiscal Services Division, and Mr. Geeting for the excellent staff support they have provided. He also thanked the numerous groups who gave input. The regulations represent a compromise, and they are fair. Charter schools in their first year and small schools, 100 students or fewer, would be given extra consideration for full funding.

Mr. Geeting noted that in the proposed regulations full funding is 100 percent. If the Legislature comes along with a statute capping the percentage, the statute would supersede the regulation. President Hastings suggested that if the Legislature caps funding for independent study in non-charter schools, it may be necessary to amend these regulations further to avoid a fiscal incentive to shift independent study to charter schools.

President Hastings opened the Public Hearing at 11:50 a.m.

The following individuals addressed the Board:
Dennis Boyer, New Jerusalem Charter School
Mary Vink, New Jerusalem Charter School
Rex Fortune, Superintendent, Center USD
Pat Golding, Hickman Charter District
David Patterson, CANEC

President Hastings closed the Public Hearing at 12:10 p.m.

In response to Mr. Fisher's request for information, Mr. Kushner explained that grants could be considered as mitigating factors. Schools can come before the Commission, which has the discretion to make a recommendation for funding at a higher level.

Ms. Sterling added the revenue used for calculations included all revenues, including grants.

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- ACTION: Mr. Nuñez moved that the State Board direct that the proposed regulations be amended in accordance with the recommendation of the Advisory Commission on Charter Schools and sent out for 15-day public review in accordance with the Administrative Procedure Act. Mrs. Ichinaga seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 37	Proposed Amendment to Title 5, CCR, Regulations Relating to Educational Interpreter Standards.	INFORMATION ACTION PUBLIC HEARING
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Nancy Sager, Special Education Division, provided a summary of public comments received during the public review period, including letters of support.

President Hastings opened the Public Hearing at 12:38 p.m.

The following individuals addressed the Board:

Sheri Farinha Mutti, California Coalition of Agencies Serving the Deaf and Hard of Hearing, Inc.

John Sayler, ACSA

Robin Rodgers, San Juan USD

Robin Franke-Swartz, San Juan UCD

Wendy McCoy, San Juan UCD

Maureen Burness, State SELPA

Barbara Martin, parent, interpreter

Maria Wilson, parent, teacher

President Hastings closed the Public Hearing at 1:14 p.m.

Superintendent Eastin thanked Ms. Mutti for her extraordinary leadership and for educating her over the years.

President Hastings asked all supporters of the regulations to stand to be acknowledged.

Mrs. Joseph stated that she thinks the issue of including in the regulations the types of certification that are equivalent is important. Superintendent Eastin urged the Board to pass the regulations. She stated that Department staff will work on the issues brought up by the speakers, such as defining equivalent, and bring the information back to the Board. She committed to convening a broadly based group to do this work.

- ACTION: Mr. Jenkins moved that the State Board approve the regulations relating to educational interpreter standards as presented in the agenda item. Mrs. Ichinaga seconded the motion. The motion was approved by unanimous vote of the members present.

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ITEM 38	AB 466 (Mathematics and Reading Professional Development Program) Permanent Regulations Public Hearing	INFORMATION ACTION PUBLIC HEARING
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Mr. Vasey presented the item. Superintendent Eastin stated her objection to the language “including algebra.” The inclusion of that language affects the professional development for high school mathematics teachers.

President Hastings opened the Public Hearing at 1:24 p.m.

The following individuals addressed the Board:

Lisa Ramer, ACSA

Don Bridge, CTA

President Hastings closed the Public Hearing at 1:26 p.m.

Mrs. Joseph pointed out that algebra is the 8th grade standard. The 8th grade algebra texts have been reviewed by the Curriculum Commission and adopted by the State Board. In response to a speaker’s comment regarding requiring teachers to sign in three times each day, Ms. Joseph noted that teachers get \$1,000 for taking this training and also, in some cases, continuing education units. The signatures are verification for auditing. Mr. Nuñez stated that he supports the changes suggested by the speakers. Signing in three times is overkill. He wants to clarify that high schools are not required to use state-adopted algebra books. Ms. Tacheny commented that this issue bumps up against the CAHSEE and that she wants to make it clear the algebra texts must be the state-adopted textbooks for 8th grade.

Ms. Tacheny suggested requiring sign-in twice a day. Mrs. Joseph said that she would agree to twice a day. Mr. Nuñez stated that he thinks it is inappropriate to require sign-in. Mr. Fisher commented that he does not think it is out of line to require sign-in. President Hastings asked the Board if signing in at the beginning and end of each day was acceptable. There was general agreement that this was acceptable.

Ms. Belisle stated that in the absence of John Mockler, former executive director, and Camille Esch, former consultant, she wanted to raise a concern to the Board. In the case of algebra, students in K-8 get texts that are determined by the Curriculum Commission and the Board to be standards aligned. But in high school, students could have texts that are determined **not** to be standards aligned by the Commission and the Board. We want to train in Algebra I on textbooks that are state adopted.

- ACTION: Ms. Tacheny moved that the State Board direct that the proposed regulations be amended to provide for two (instead of three) attendance verification signatures for each full day of training (beginning and end of each day) and sent out for 15-day public review in accordance with the Administrative Procedure Act. Mr. Fisher seconded the motion. The motion was approved by a vote of 6-2. Ms. Goncalves and Mr. Nuñez voted against the motion.

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ITEM 39	Request by the Performing Arts and Communications Technology Academy Petitioners to Approve a Petition to Become a Charter School Under the Oversight of the State Board of Education	INFORMATION ACTION PUBLIC HEARING
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This item was withdrawn by the petitioners.

ITEM 40	Adoption of Permanent English Learner Regulations.	ACTION
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Jan Mayer, Language Policy and Leadership Office, summarized the comments received during the last 15-day public review period.

Superintendent Eastin urged the Board to put language in Section 11309(a)(2) regarding placement of students in an English-language classroom for 30 days.

The following individuals addressed the Board:

- Manny Hernandez, Senator Polanco’s office
- Holly Jacobson, CSBA
- Lisa Ramer, ACSA

President Hastings commented that this issue of the 30-day placement was ambiguous and open to interpretation. Ms. Goncalves remarked that each time the Board considers these regulations language is either added or removed. She would like to see the regulations approved.

- ACTION: Ms. Goncalves moved that the State Board approve the regulations as presented in the agenda item. Ms. Tacheny seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Ichinaga and Mr. Jenkins were not present when the vote was taken.

ITEM 42	Revision to the <i>California State Plan (1999-2004) for the Title II: Workforce Investment Act, Adult Education and Family Literacy Act</i> (revised January 10, 2002)	ACTION
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Ms. Weaver provided an overview of the state plan for adult education.

Ms. Belisle noted the plan has to do with adult education through 2004. She pointed out that one issue the Board will need to face is what happens to students who are 16 years old and go into adult education. These students need to take and pass algebra and the CAHSEE to receive a diploma.

Ms. Weaver responded she is happy to add references to algebra and the CAHSEE in the federal plan.

- ACTION: Mr. Nuñez moved that the State Board approve the revision of the *California State Plan (1999-2004) for the Title II: Workforce Investment Act, Adult Education and Family*

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Literacy Act with the inclusion of modifications recommended by the State Board's Chief Counsel. Ms. Tacheny seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Ichinaga and Mr. Jenkins were not present when the vote was taken.

ITEM 43	California's State Policies and Procedures for Special Education – Application for FY 2002 Part B Federal Funds	ACTION
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Ms. Janet Canning, Special Education Division, noted the Advisory Commission on Special Education recommended that the Board approve the policies and procedures document.

- ACTION: Mr. Nuñez moved that the State Board approve California's State Policies and Procedures for Special Education – Application for FY 2002 Part B Federal Funds – as proposed by CDE staff. Mrs. Joseph seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Ichinaga and Mr. Jenkins were not present when the vote was taken.

Ms. Canning thanked Ellen Cubanks and Paul Hinkle for their hard work and contributions to the development of the document.

ITEM 44	Standards of Quality and Effectiveness for Professional Teacher Induction Programs.	INFORMATION
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Mr. Vasey reported stated that this is an information item. He noted that we are moving from a professional credential based on course work to a professional credential based on induction programs.

Mr. Nuñez clarified that the Board has to approve the alternative credentialing section. Mr. Vasey replied the Department staff hopes that the standards will be the same for all the induction programs.

The following individuals addressed the Board:

Barbara Shinn, BTSA
Curtis Washington, CTA
Phil Escamilla, CSBA

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

CONSENT WAIVERS (WC-1 through WC-15)

INSTRUCTIONAL MATERIALS SUFFICIENCY (Audit Findings)

ITEM WC-1	Request by two 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. CDSIS-26-02-2002 Gorman Elementary School District CDSIS-146-4-2002 Solano County Office of Education (Recommended for APPROVAL)	ACTION
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ITEM WC-2	Request by five 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 2000- 2001 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. CDSIS-107-4-2002 Big Oak Flat-Groveland Unified School District CDSIS-27-12-2002 Gonzales Unified School District CDSIS-19-04-2002 Grant Joint Union High School District CDSIS-55-04-2002 Maple Creek Elementary School District CDSIS-81-04-2002 Monroe Elementary School District (Recommended for APPROVAL)	ACTION
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MILLER UNRUH READING SPECIALIST

ITEM WC-3	Request by Warner Unified School District to waive <i>Education Code</i> (EC) Section 52859(b). This request relates to the prohibition of using funds coordinated under the School-based Coordinated Program (SBCP) to pay for local share of costs associated with the employment of a Miller-Unruh Reading Specialist. CDSIS-111-3-2002 (Recommended for APPROVAL)	ACTION
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NONPUBLIC SCHOOL/AGENCY (Annual renewal application timeline)

ITEM WC-4	Request by the Los Angeles Unified School District, to waive <i>Education Code</i> (EC) Section 56366.1(g), the August 1 through October 31 timeline requirement on annual certification renewals. Devereux Arizona (NPS) CDSIS-128-3-2002 (Recommended for APPROVAL)	ACTION
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MILLER UNRUH READING SPECIALIST

ITEM WC-5	Request by Lawndale Elementary School District to waive <i>Education Code</i> (EC) Section 52859(b). This request relates to the prohibition of using funds coordinated under the School-based Coordinated Program (SBCP) to pay for local share of costs associated with the employment of Miller-Unruh Reading Specialists. CDSIS-110-4-2002 (Recommended for APPROVAL)	ACTION
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REGIONAL OCCUPATIONAL PROGRAM (ROP)

ITEM WC-6	Waiver request for La Puente Valley Regional Occupational Program to waive <i>Education Code</i> (EC) Section 52314.6(a) regarding the 3% limit enrollment of students under the age of 16, in the Regional Occupational Program (ROP). CDSIS-21-4-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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RESOURCE SPECIALIST

ITEM WC-7	Request from Hillsborough City School District to waive <i>Education Code</i> (EC) Section 56362(c); allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than four students. Rosanna Lucchesi, Resource Specialist CDSIS-9-1-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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ITEM WC-8	Request from Rio Linda Union School District to waive <i>Education Code</i> (EC) Section 56362(c); allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than four students. Catherine Kizer, Frontier School CDSIS-92-3-2002 (Recommended for APPROVAL)	ACTION
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ITEM WC-9	Request by Clovis Unified School District to waive <i>Education Code</i> (EC) Section 56362(c); allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than four students. Susan Allen, Fort Washington Elementary Sara West, Garfield Elementary CDSIS-33-2-2002 (Recommended for APPROVAL)	ACTION
ITEM WC-10	Request by Lowell Joint School District to waive <i>Education Code</i> (EC) Section 56362(c); allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than four students. Joel Carlisle assigned at Rancho-Starbuck. CDSIS-111-4-2002 (Recommended for APPROVAL)	ACTION
ITEM WC-11	Request from West Contra Costa Unified School District to waive <i>Education Code</i> (EC) Section 56362(c); allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than four students. Ettiene Godfrey assigned at El Cerrito High School. CDSIS-113-4-2002 (Recommended for APPROVAL)	ACTION
ITEM WC-12	Request by Newport-Mesa Unified School District to waive <i>Education Code</i> Section 56362(c); allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than four students. Paige Holmes-Selby assigned at Corona del Mar High School. CDSIS-62-12-1001 (Recommended for APPROVAL)	ACTION
<u>STATE MEAL MANDATE (summer school session)</u>		
ITEM WC-13	Original request by six districts to waive <i>Education Code</i> Section 49550, the State Meal Mandate during the summer school session. (See list attached) (Recommended for APPROVAL)	ACTION

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STATE MEAL MANDATE (summer school session)

ITEM WC-14	Renewal request by 65 districts to waive <i>Education Code</i> Section 49550, the State Meal Mandate during the summer school session. (See list attached) (Recommended for APPROVAL)	ACTION
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STATE MEAL MANDATE (Saturday school session)

ITEM WC-15	Renewal request by three districts to waive <i>Education Code</i> Section 49550, the State Meal Mandate during the Saturday school session. CDSIS-67-3-2002 Pacific Union Elementary School District CDSIS-110-3-2002 Julian Union High School District CDSIS-71-3-2002 Chatham Union School District (Recommended for APPROVAL) <i>Education Code</i> (EC) Section 33051(c) will apply	ACTION
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Ms. Pinegar informed the Board of a minor correction under WC-14, the number of districts covered by the waiver request is 64, not 65.

- ACTION: Mr. Nuñez moved that the State Board approve the requests in Items WC-1 through WC-15, including the conditions proposed under Item WC-6 and WC-7, and noting that *Education Code* Section 33051(c) will apply to the requests in Item WC-15. The motion recognized a minor correction in the cover sheet (64 waivers instead of 65 waivers) under Item WC-14. Ms. Tacheny seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Ichinaga and Mr. Jenkins were not present when the vote was taken.

WITHDRAWN WAIVERS

ACADEMIC PERFORMANCE INDEX

ITEM W-1	Barstow Unified School District – STAR Program Settlement (ELL) API Awards Eligibility Waiver. Specifically Barstow USD requests a waiver of <i>Education Code</i> Section Title 5 CCR Section 1032(g) "...an API score increase of 5 points..." and (h) '80% of the school wide...comparable improvement in the socioeconomically disadvantaged sub-group" which would in effect allow one school, Crestline Elementary School to be "awards eligible" for the 2000-2001 Governors Performance Award Program. CDSIS-22-2-2002 (Recommended for DENIAL per E.C. 33051(a)(1))	ACTION
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This waiver was withdrawn by the requesting district.

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HIGH PRIORITY SCHOOLS GRANT PROGRAM

ITEM W-6	Request by fifty-eight districts to waive <i>Education Code</i> Section 52055.610(c)(1-3) in the High Priority Schools Grant Program (HPSGP) from March 14, 2002 through October 1, 2002 in order to delay the timelines for participating schools in the districts. CDSIS numbers -- See Attached List (Recommended for APPROVAL)	ACTION
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This item was withdrawn because the passage of SB 508 eliminated the need for the waiver.

PROPOSED CONSENT WAIVERS (W-3, W-5, W-8, W-12 through W-16, and W-21 through W-24)

BEGINNING-TEACHER MINIMUM SALARY INCENTIVE PROGRAM

ITEM W-3	Request by the Columbine Elementary School District to waive fiscal year references in <i>Education Code</i> (EC) Section 45023.1 to implement the Beginning-Teacher Minimum Salary Incentive Program in fiscal year 2001-02. CDSIS-1-4-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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COMMUNITY DAY SCHOOL

ITEM W-5	Request by the Hacienda La Puente Unified School District for a waiver of <i>Education Code</i> Section 48661(a) relating to the placement of a district community day school on the same site as Valley Alternative (Continuation High) School. CDSIS-129-3-2002 (Recommended for APPROVAL for one year only)	ACTION
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INSTRUCTIONAL MATERIALS SUFFICIENCY (Audit Findings)

ITEM W-8	Request by Raisin City Elementary School District for a retroactive waiver of <i>Education Code</i> (EC) Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. For the fiscal years 1999-2000 and 2000-2001, this district had an audit finding on two different issues in regard to the posting of the public notice. CDSIS-119-3-2002 CDSIS-29-3-2002 (Recommended for APPROVAL)	ACTION
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MATHEMATICS PROFESSIONAL DEVELOPMENT

ITEM W-12	Request by Hilmar Unified School District for a waiver of <i>Education Code</i> Section 44721(a) to allow use of AB 1331 Grant funds for per diem and release time for teacher training in mathematics instruction. CDSIS-39-4-2002 (Recommended for APPROVAL)	ACTION
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NONPUBLIC SCHOOL/AGENCY (child specific—out-of-state)

ITEM W-13	Request by Capistrano Unified School District to waive <i>Education Code</i> (EC) Section 56366.1(a), certification for an uncertified nonpublic school, May Center, located in Randolph, Massachusetts to provide services to one special education student Alex T. CDSIS-153-4-2002 and CDSIS-154-4-2002 (Recommended for APPROVAL)	ACTION
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ITEM W-14	Request by Kern High School District to waive <i>Education Code</i> (EC) Section 56366.1(a), certification for an uncertified nonpublic school, Rancho Valmora, located in Valmora, New Mexico to provide services to one special education student, Samuel P. CDSIS-6-2-2002 (Recommended for APPROVAL)	ACTION
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ITEM W-15	Request by Vacaville Unified School District to waive <i>Education Code</i> (EC) Section 56366.1(a), certification for an uncertified nonpublic school, Devereux Cleo Wallace, Westminster, Colorado, to provide services to one special education student Jimmy I. CDSIS-55-1-2002 (Recommended for APPROVAL)	ACTION
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ITEM W-16	Request by New Haven Unified School District to waive <i>Education Code</i> (EC) Section 56366.1(a), certification for an uncertified nonpublic school, Lake Grove at Maple Valley, located in Wendell, Massachusetts to provide services to one special education student, Brandon J. CDSIS-39-11-2001 (Recommended for APPROVAL)	ACTION
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SCHIFF-BUSTAMANTE

ITEM W-21	General waiver request of <i>Education Code</i> Sections 60450(b) and 60451(b) – Schiff-Bustamante Standards-Based Instructional Materials Program by Ontario-Montclair SD to purchase nonadopted Instructional Resources (<i>Houghton Mifflin Mathematics, Grade 6</i>) using Schiff-Bustamante Funds. CDSIS-114-3-2002 (Recommended for APPROVAL)	ACTION
ITEM W-22	General waiver request of <i>Education Code</i> Sections 60450(b) and 60451(b) – Schiff-Bustamante Standards-Based Instructional Materials Program by Evergreen Union SD to purchase nonadopted Instructional Resources (<i>Houghton Mifflin Mathematics, Grade 6</i>) using Schiff-Bustamante Funds. CDSIS-56-4-2002 (Recommended for APPROVAL)	ACTION

SCHOOL SITE COUNCIL

ITEM W-23	Request by Golden Feather Union School District to renew a waiver of <i>Education Code</i> Section 52852, allowing one joint school site council to function for two small rural schools. CDSIS-78-3-2002 (Recommended for APPROVAL)	ACTION
ITEM W-24	Request by Clovis Unified School District to renew a waiver of <i>Education Code</i> Section 52852, allowing one school site council to function for three alternative schools that occupy the same site (Gateway, Excel, and Enterprise High Schools). CDSIS-23-4-2002 (Recommended for APPROVAL)	ACTION

President Hastings noted that waiver items W-3, W-5, W-8, W-12 through W-16, and W-21 through W-24 were proposed consent waivers. [Attachment 15, Proposed Consent and Non-Consent Waiver Chart.] He asked for a motion on these waivers.

- ACTION: Mr. Nuñez moved that the State Board approve the requests in Items W-3, W-5, W-8, W-12 through W-16, and W-21 through W-24, including the conditions proposed under Item W-3 and recognizing that approval of the request in Item W-5 is for one year only. Ms. Tacheny seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Ichinaga and Mr. Jenkins were not present when the vote was taken.

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NON-CONSENT WAIVERS

ADULT EDUCATION INNOVATION AND ALTERNATIVE INSTRUCTIONAL DELIVERY PROGRAM

ITEM W-2	Request by Los Angeles Unified School District to waive <i>Education Code</i> (EC) Section 52522(b) to increase their adult education state block entitlement of 5 percent to 7 percent for implementation of approved programs (Adult Education Innovation and Alternative Instructional Delivery Program). CDSIS-5-3-2002 (Recommended for APPROVAL WITH CONDITION)	ACTION
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Ms. Pinegar stated that the Department recommendation was for approval with the condition that the waiver be for one year only.

Santiago Jackson spoke on behalf of the district's waiver.

- ACTION: Ms. Goncalves moved that the State Board approve the request in Item W-2 with the condition proposed by CDE staff. Mrs. Joseph seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Ichinaga and Mr. Jenkins were not present when the vote was taken.

CLASSIFIED SENIOR MANAGEMENT

ITEM W-4	Waiver request of E.C. section 45108.59b)(4)-designation of Classified Senior Management positions by Los Angeles Unified School District to increase permanently the number of Classified Senior Management Employees in the District. Current: 25 permanent, 5 temporary. Proposed: convert the 5 temporary designations to permanent and add 24 new permanent designations for a total of 54 permanent and no temporary designations. CDSIS-36-4-2002 and CDSIS-40-4-2002 (Recommended for APPROVAL) see summary write-up (Recommended for DENIAL) see summary write-up	ACTION
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Ms. Pinegar introduced Duwayne Brooks, School Facilities Planning Division, who presented the Department's recommendation. Mr. Brooks stated that this is a waiver request for an additional 24 permanent positions. The Department is recommending approval of seven additional permanent Classified Senior Management (CSM) positions and five new temporary CSM positions for six years. The Department is recommending denying 17 additional CSM positions.

Superintendent Eastin stated that the request is indefensible, as this would give Los Angeles USD more managers than all the managers in the Department.

Tom Boysen spoke on behalf of the district's request.

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Ms. Tacheny remarked that to put LAUSD in context, there is no district comparable to LAUSD. When you go five levels down, the skills, accountability, and the salary are management level. LAUSD wants these exempt positions for accountability purposes. She stated that she wants to grant the waiver request for all of the positions.

- ACTION: Ms. Tacheny moved that the State Board approve the request as presented by the district. Mrs. Joseph seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Ichinaga and Mr. Jenkins were not present when the vote was taken.

LICENSED CHILDREN’S INSTITUTION (LCI)

ITEM W-7	Request by Sonoma County Office of Education for a retroactive waiver of <i>Education Code</i> (EC) Section 56155(a)(4) “other public agency” which is an <u>exclusion</u> to the current definition of a “licensed children’s institution.” CDSIS-29-2-2002 (Recommended for DENIAL)	ACTION
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Ms. Pinegar reported that the Department was opposed to the waiver. She noted that there were no speakers on this waiver.

- ACTION: Mr. Nuñez moved that State Board deny the request in Item W-7 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. Ichinaga and Mr. Jenkins were not present when the vote was taken.

INSTRUCTIONAL TIME PENALTY

ITEM W-9	Request by Fremont Unified School District to waive <i>Education Code</i> (EC) Section 46201(c), the full longer-day instructional time penalty for the 2001-2002 school year for Washington and Irvington High Schools. (CDSIS-49-1-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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Ms. Pinegar stated that the new statute on instructional time penalty waivers was unclear. Specially, SB 178 is not clear in the waiver section of the law regarding when the waiver section is effective.

President Hastings asked about the waivers for past penalties that might come back to the Board. Ms. Pinegar reported she knew of new five waivers.

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The following individuals addressed the Board:
Sharon Jones, Superintendent, Fremont USD
Nina Moore, Board Member, Fremont USD
Elizabeth Smith, Senator Liz Figueroa's office
Lisa Gardner, Assemblyman John Dutra's office

Superintendent Eastin stated this is a high-performing district. Mrs. Joseph added this is an outstanding school district and recommended approving the waiver with the conditions recommended by Department staff.

President Hastings raised the issue of the retroactive nature of the waiver. Mr. Fisher expressed his concern about setting a precedent. Ms. Pinegar replied that under the old statute, before the passage of SB 178, the State Board did not get any waivers over 900 minutes. President Hastings clarified that the law changed and the Department is not sure when it was effective. Mr. Geeting advised that the penalty was not changed for violations that occurred in 2000-01. Ms. Pinegar stated that the Department would not bring back waivers that had been resolved. Ms. Belisle commented that while the waivers for more than 900 minutes had been sent back to the districts without the Board seeing them that does not mean the waiver requests were resolved. She added that typically laws are applied prospectively, not retroactively.

- **MOTION FAILS:** Mrs. Joseph moved that the State Board approve the request in Item W-9 with the condition proposed by CDE staff. Mr. Nuñez seconded the motion. The motion recognized a minor correction to the request: the instructional time shortfall occurred in 2000-01. The motion failed by a vote of 2-1-3. Mrs. Joseph and Mr. Nuñez voted for the motion; Mr. Hastings voted against the motion; Mr. Fisher, Ms. Goncalves, and Ms. Tacheny did not vote on the motion. In addition to the absent members, Mrs. Ichinaga and Mr. Jenkins were not present when the vote was taken.

President Hastings directed that this request be placed on the June 2002 agenda.

9th GRADE CLASS SIZE REDUCTION (MORGAN-HART)

ITEM W-10	Request by Conejo Valley Unified School District to waive <i>Education Code</i> Sections 52082 and 52084(a) and (b) under 9 th Grade Class Size Reduction (Morgan-Hart) to receive funding to reduce class size for first year Algebra in 8 th Grade in addition to Grade 9 English and Math. CDSIS-113-3-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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Ms. Pinegar informed the Board that this was the first waiver of this type to come before the Board. President Hastings commented that this waiver really is as policy discussion.

- **ACTION:** Mr. Nuñez moved that the State Board approve the request in Item W-10 with the conditions proposed by CDE staff. Mrs. Joseph seconded the motion. The motion was approved

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by unanimous vote of the members present. In addition to the absent members, Mrs. Ichinaga and Mr. Jenkins were not present when the vote was taken.

President Hastings requested that Ms. Pinegar develop a policy as the basis for discussion of similar waivers.

ITEM W-11	Los Angeles Unified School District requests to waive <i>Education Code</i> Section 52084(a) 9 th Grade Class Size Reduction to receive funding for two English courses in Grade 9 (adding Developing Readers and Writers-Strategic Literacy for students who score below the 20 th percentile on the SAT-9 Reading test) and one Math course. CDSIS-89-4-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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Ms. Pinegar noted that this waiver is similar to many others that the Board has approved in the past.

- ACTION: Mrs. Joseph moved that the State Board approve the requests in Item W-11 with the conditions proposed by 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. Ichinaga and Mr. Jenkins were not present when the vote was taken.

INSTRUCTIONAL MATERIALS FUND PETITIONS

ITEM W-17	Petition request under <i>Education Code</i> (EC) Section 60200(g) by East Whittier City SD to purchase nonadopted Instructional Resources (<i>Everyday Mathematics, Grades K-3, c. 2001; Grades 4-5, c. 2002</i>) using Instructional Materials Fund (IMF) monies. CDSIS-34-4-2002 (Recommended for APPROVAL)	ACTION
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Ms. Griffith presented the waiver, which is a request by the district to spend 40 percent of its Instructional Materials Fund on *Everyday Mathematics*.

Ms. Belisle reminded the Board that when Mr. Mockler was with the Board, there were numerous conversations about petitions and waivers being treated similarly and reviewed under the same criteria.

Mrs. Joseph noted this waiver is a deviation from the policy. The 2002 *Everyday Mathematics* materials have not been reviewed. The previous editions were reviewed by the Curriculum Commission. Mrs. Joseph requested that Items W-17 and W-18 be tabled to allow for a discussion of the waiver policy.

Kathy Tryon, Assessment Coordinator, and Bunny Siclick, Curriculum Coordinator, spoke on behalf of the district's waiver.

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- o After discerning that there was opposition to the request among the members of the State Board, President Hastings directed that further consideration of the request in Item W-17 be postponed to the June 2002 meeting.

ITEM W-18	Petition request under Education Code Section 60200(g) by Conejo Valley USD to purchase nonadopted Instructional Resources (<i>Everyday Mathematics, grades K-3, c. 2001; grades 4 – 6, c. 2002</i>) using Instructional Materials Fund (IMF) monies. CDSIS-25-4-2002 (Recommended for APPROVAL)	ACTION
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Martha Mutz spoke on behalf of the district's waiver.

- o After discerning that there was opposition to the request among the members of the State Board, President Hastings directed that further consideration of the request in Item W-18 be postponed to the June 2002 meeting.

RESOURCE SPECIALIST

ITEM W-19	Request by Alhambra School District to waive <i>Education Code</i> (EC) Section 56362(c); allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than four students. Sandra Hausner, Garfield Elementary CDSIS-80-4-2002 (Recommended for DENIAL)	ACTION
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ITEM W-20	Request from Alhambra School District to waive <i>Education Code</i> (EC) Section 56362(c); allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than four students. Karin Singleton, Northrup Elementary Jennifer Miranda, Repetto Elementary CDSIS-114-4-2002 (Recommended for DENIAL)	ACTION
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Ms. Pinegar informed the Board that there were no speakers from the requesting districts. Sue Sheridan, CARSPlus, thanked Ms. Pinegar for all of her hard work on these waivers.

- ACTION: Ms. Tacheny moved that the State Board deny the requests in Items W-19 and W-20 in accordance with the recommendations 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. Ichinaga and Mr. Jenkins were not present when the vote was taken.

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ITEM 45	Proposed Formation of the Sonora Unified School District in Tuolumne County. (Public Hearing held June 2001.)	ACTION
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Ms. Sterling reported that the Department again recommends the Board disapprove the petition. Teri Chen, School Fiscal Services Division, noted that the Department concurred with Tuolumne County Committee recommendation to disapprove the petition. The Department staff found no compelling reason to unify the district. It was noted that the Jamestown school board had rescinded its resolution to opt out of the unification. [Attachment 16, Memo from E. Cubanski.]

The following individuals addressed the Board:

Max Carlson, Chief Petitioner, in support of the petition

Joe Van Hermann, Columbia School Board, in opposition to the petition

President Hastings summarized that the Board's options were to put the petition before the voters or disapprove the petition.

- **MAIN MOTION FAILS:** Ms. Goncalves moved that the State Board disapprove the petition to form a unified school district along the boundaries of the Sonora Union High School District in Tuolumne County by adoption of the resolution to that effect prepared by CDE staff. Ms. Tacheny seconded the motion. The motion failed by a vote of 5-1. Mr. Nuñez voted against the motion. In addition to the absent members, Mrs. Ichinaga and Mr. Jenkins were not present when the vote was taken.
- **MOTION TO RECONSIDER APPROVED:** Mr. Nuñez moved that the State Board reconsider the previous motion. Ms. Tacheny seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Ichinaga and Mr. Jenkins were not present when the vote was taken.
- **ACTION:** The motion to reconsider having been duly approved, President Hastings called for a vote on the main motion made by Ms. Goncalves and seconded by Ms. Tacheny, i.e., that the State Board disapprove the petition to form a unified school district along the boundaries of the Sonora Union High School District in Tuolumne County by adoption of the resolution to that effect prepared by CDE staff. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Ichinaga and Mr. Jenkins were not present when the vote was taken.

ITEM 46	School Accountability Report Card (SARC).	INFORMATION
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President Hastings asked if the presentation could be rescheduled for early in the day at the June meeting. (A demonstration of the electronic-based School Accountability Report Card was made informally to members following the meeting's adjournment.)

Adjournment: President Hastings adjourned the meeting at 3:24 p.m.