

# California State Board of EducationFinal Minutes September 14-15, 2022

## Members Present

* Linda Darling-Hammond, President
* Cynthia Glover Woods, Vice President
* Francisco Escobedo
* Brenda Lewis
* James J. McQuillen
* Sharon Olken
* Gabriela Orozco-Gonzalez
* Kim Pattillo Brownson
* Haydee Rodriguez
* Alison Yoshimoto-Towery
* Naomi Porter, Student Member

## Members Absent

* None

## Principal Staff

* Brooks Allen, Executive Director, State Board of Education (SBE)
* Jessica Holmes, Chief Deputy Executive Director, SBE
* Judy Cias, Chief Counsel, SBE
* Lisa Constancio, Senior Deputy Director, SBE
* Rigel Massaro, Deputy Legal Counsel and Deputy Policy Director, SBE
* Janet Weeks, Director of Communications, SBE
* Aileen Allison-Zarea, Education Administrator I, SBE
* Carolyn Pfister, Education Administrator I, SBE
* Laila Fahimuddin, Policy Director, SBE
* Sara Pietrowski, Policy Director, SBE
* Amy Bubbico, Staff Services Manager, SBE
* Lisa Hopkins, Associate Governmental Program Analyst, SBE
* Haley Gordon, Associate Governmental Program Analyst, SBE
* Cheryl Cotton, Deputy Superintendent, CDE
* Sarah Neville Morgan, Deputy Superintendent, CDE
* Amy Holloway, General Counsel, CDE, Thursday only
* Alex Moos, Education Policy Administrator I, CDE

**Please note that the complete proceedings of the September 14-15, 2022 State Board of Education meeting, including closed-captioning, are available online at:** <http://www.cde.ca.gov/be/ag/ag/sbewebcastarchive.asp>

## California State Board of EducationPublic Session September 14, 2022

**Wednesday, September 14, 2022 – 8:30 a.m. Pacific Time ±**California Department of Education
1430 N Street, Room 1101
Sacramento, California 95814

* Call to Order
* Salute to the Flag
* Communications
* Announcements
* Special Presentations
	+ *Public notice is hereby given that special presentations for informational purposes may take place during this session.*
* Agenda Items
* Day’s Adjournment

**President Darling-Hammond called the meeting to order at approximately 8:37 a.m.**

**President Darling-Hammond administered the Oath of Office to Alison Yoshimoto-Towery and Naomi Porter, Student Member.**

### AGENDA ITEMS DAY 1

#### Item 01

**Subject:** STATE BOARD PROJECTS AND PRIORITIES.

Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board appointments and direction to staff; declaratory and commendatory resolutions; Bylaw review and revision; Board policy; approval of minutes; Board liaison reports; training of Board members; State Superintendent of Public Instruction Report; State Board of Education President’s Report; and other matters of interest.

**Type of Action:** Action, Information

**Summary of the Issue:**

1. State Superintendent of Public Instruction’s Report
2. State Board of Education President’s Report

**ACTION:** No Action Taken.

#### Item 02

**Subject:** Update on the Implementation of the Integrated Local, State, and Federal Accountability and Continuous Improvement System: Eligibility Criteria for Differentiated Assistance, Connecting the Dashboard to the Teacher Assignment Data and Science Test Results, California School Dashboard Principles, and Information on the English Learner Student Group for the Academic Indicators.

**Type of Action:** Action, Information

**Recommendation:** The CDE is seeking approval to: (1) use the lowest Status level as a proxy for Red as reported on the 2022 Dashboard to determine county offices of education and districts eligible for Differentiated Assistance, (2) include a link on the Dashboard to the teacher assignment data that is supported through DataQuest, and (3) include a link on the Dashboard to the science results that is supported through the California Assessment of Student Performance and Progress (CAASPP) web site.

**ACTION:** Member Glover Woods moved to approve the CDE recommendation.

Member Rodriguez seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, McQuillen, Olken, Orozco-Gonzalez, Pattillo Brownson, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** None

**Member Absent:** None

**Abstentions:** None

**Recusals:** None

The motion passed with 11 votes.

#### Item 04

**Subject:** The California Assessment of Student Performance and Progress System and the English Proficiency Assessments for California Update: Request for Approval of the Proposed California Alternate Assessment for Science Threshold Scores, the Smarter Balanced Summative Assessments for English Language Arts/Literacy and Mathematics Blueprints, and the 2022–23 California Assessment of Student Performance and Progress and the English Language Proficiency Assessments for California Student Score Reports; and an Update on Assessment Program Activities.

**Type of Action:** Action, Information

**Recommendation:** The CDE recommends that the SBE approve the following:

* The State Superintendent of Public Instruction’s proposed threshold scores for the California Alternate Assessment (CAA) for Science, to be effective as of the 2022 administration. The proposed threshold scores are shown in tables 1 and 2 of Attachment 2.
* The continued use of the California Assessment of Student Performance and Progress (CAASPP) Smarter Balanced Summative Assessments for ELA and Mathematics adjusted form blueprints, as described in tables 1 and 2, for the 2022–23 administration until the Smarter Balanced Consortium approves any further changes to the adjusted form blueprints.
* The 2022–23 CAASPP and ELPAC Student Score Reports (SSRs).

**CDE Revised Recommendation:** The CDE recommends that the SBE approve the following:

* The State Superintendent of Public Instruction’s (SSPI’s) proposed threshold scores for the California Alternate Assessment (CAA) for Science.
* Continued use of the adjusted form blueprints for the Smarter Balanced assessments for English language arts/literacy (ELA) and mathematics.
* California Assessment of Student Performance and Progress (CAASPP) and English Language Proficiency Assessments for California (ELPAC) Student Score Reports (SSRs) for 2022–23.

**ACTION:** Member Escobedo moved to approve the revised CDE recommendation as stated above.

Member Orozco-Gonzalez seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, McQuillen, Olken, Orozco-Gonzalez, Pattillo Brownson, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** None

**Member Absent:** None

**Abstentions:** None

**Recusals:** None

The motion passed with 11 votes.

#### Item 03

**Subject:** Update on the Dashboard Alternative School Status Request for a Waiver Pursuant to Section 8401 of the Elementary and Secondary Education Act of 1965.

**Type of Action:** Action, Information

**Recommendation:** The CDE requests that the SBE provide direction to the CDE in terms of short-term and long-term steps as to how to meet the requirement to include all schools in its system of annual meaningful differentiation using the same Academic Achievement and Graduation Rate indicators for Dashboard Alternative School Status (DASS) and non-DASS schools based on data from school year 2021–22 and for school identifications for the 2022 Dashboard and for future years.

The CDE further recommends that the SBE delegate authority to CDE, subject to approval of the SBE Executive Director, to engage in discussions with the US Department of Education per the SBE’s direction to resolve issues prior to release of the 2022 California School Dashboard.

**Revised Recommendation:** The CDE recommends that the SBE approve the following short-term options for the 2022 Dashboard. Reaffirm California’s commitment to the DASS program by:

1. Continuing to report modified methods AND non-modified methods on the Dashboard.
2. Label DASS schools that meet the eligibility for Comprehensive Support and Improvement (CSI) low graduation rate or low performance as a DASS Community of Practice to distinguish the uniqueness of these schools and the students served.
3. Develop differentiated improvement activities for schools that predominately serve students returning to education after having exited secondary school without a regular high school diploma or who, based on their grade or age are significantly off track to accumulate sufficient academic credits to meet high school graduation requirement.

The CDE further recommends that the SBE delegate authority to CDE, subject to approval of the SBE Executive Director, to engage in discussions with the US Department of Education per the SBE’s direction to resolve issues prior to release of the 2022 California School Dashboard.

**ACTION:** Member Escobedo moved to approve the revised CDE recommendation as stated above.

Member Lewis seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, McQuillen, Olken, Orozco-Gonzalez, Pattillo Brownson, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** None

**Member Absent:** None

**Abstentions:** None

**Recusals:** None

The motion passed with 11 votes.

### REGULAR CONSENT ITEMS(Item 05 through Item 08)

#### Item 05

**Subject:** Extended School Year – Adopt amendments to California Code of Regulations, Title 5, Section 3043.

**Type of Action:** Action, Information, Consent

**Recommendation:** The CDE recommends the SBE take the following actions:

* Approve the Final Statement of Reasons
* Adopt the proposed regulations
* Direct the CDE to submit the rulemaking file to the Office of Administrative Law (OAL) for approval
* Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file

#### Item 06

**Subject:** Physical Fitness Test: Approve the Finding of Emergency and Second Readoption of the Proposed Emergency Regulations for Amendments to the California Code of Regulations, Title 5, Section 1040.

**Type of Action:** Action, Information, Consent

**Recommendation:** The CDE recommends that the SBE take the following actions:

* Approve the Finding of Emergency.
* Readopt, for the second time, the proposed emergency regulations.
* Direct the CDE to circulate the required Notice of Proposed Emergency Action, and then submit the emergency regulations to the OAL for approval.
* Authorize the CDE to take any necessary action to respond to any direction or concern expressed by the OAL during its review of the Finding of Emergency and proposed emergency regulations.

#### Item 07

**Subject:** Consideration of Requests for Determination of Funding as Required for Nonclassroom-based Charter Schools Pursuant to California Education Code sections 47612.5 and 47634.2, and Associated California Code of Regulations, Title 5.

**Type of Action:** Action, Information, Consent

**Recommendation:** The CDE recommends that the SBE approve the determination of funding requests at 100 percent for the period of fiscal year (FY) 2022‒23 through FY 2023‒24, as specified in Attachment 1.

#### Item 08

**Subject:** Approval of the Charter School Numbers Assigned to Newly Established Charter Schools.

**Type of Action:** Action, Information, Consent

**Recommendation:** The CDE recommends that the SBE assign a charter number to the charter school identified in Attachment 1.

**ACTION:** Member Rodriguez moved to approve the CDE recommendations for each regular item on consent (Item 05 through Item 08).

Member Pattillo Brownson seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, McQuillen, Olken, Orozco-Gonzalez, Pattillo Brownson, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** None

**Member Absent:** None

**Abstentions:** None

**Recusals:** None

The motion passed with 11 votes.

#### *END OF REGULAR CONSENT ITEMS*

### REGULAR ITEMS CONTINUED – DAY 1

#### Item 09

**Subject:** Appeal of the Denial of a Petition for the Establishment of a Classroom-Based Charter School Pursuant to California Education Code Section 47605(k)(2): Consideration of Evidence to Hear or Summarily Deny the Appeal of Caliber: High School, which was denied by the Vallejo City Unified School District and the Solano County Board of Education.

**Type of Action:** Action, Information

**Recommendation:** The CDE recommends that the SBE summarily deny review of the Caliber High School (CHS) appeal based on the documentary record, pursuant to *EC* Section 47605(k)(2)(E). CHS has not met their burden to rebut the fact that while in state receivership, Vallejo City Unified (VCUSD) is unable to absorb the fiscal impact of the proposed charter.

*EC* Section 47605(c)(8) states that a school district may deny a petition for the establishment of a charter school if it is not positioned to absorb the fiscal impact of the proposed charter. A school district in state receivership satisfies *EC* Section 47605(c)(8). Currently, VCUSD is one of four school districts in the state of California that is currently under state receivership. VCUSD entered receivership status in 2004 and received an emergency loan in the amount of $60 million. VCUSD is assigned a trustee and, at the time the appeal was submitted, had an outstanding balance of approximately $9.5 million on the emergency loan.

**ACTION:** Member Escobedo moved to approve the CDE recommendation to summarily deny review of the Caliber High Charter School petition.

Member Orozco-Gonzalez seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, McQuillen, Orozco-Gonzalez, Pattillo Brownson, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** Member Olken

**Member Absent:** None

**Abstentions:** None

**Recusals:** None

The motion passed with 10 votes.

#### Item 10

**Subject:** GENERAL PUBLIC COMMENT.

Public Comment is invited on any matter **not** included on the printed agenda. Depending on the number of individuals wishing to address the State Board, the presiding officer may establish specific time limits on presentations.

**Type of Action:** Information

**ACTION:** No Action Taken.

*ADJOURNMENT OF THE MEETING*

**President Darling-Hammond adjourned the meeting at approximately 5:07 p.m.**

## California State Board of EducationPublic Session September 15, 2022

**Thursday, September 15, 2022 – 8:30 a.m. Pacific Time +**

California Department of Education

1430 N Street, Room 1101

Sacramento, California 95814

* Call to Order
* Communications
* Announcements
* Special Presentations
*Public notice is hereby given that special presentations for informational purposes may take place during this session.*
* Agenda Items
* Adjournment
**President Darling-Hammond called the meeting to order at 9:07 a.m.**

### AGENDA ITEMS – DAY 2

#### Re-Open Item 01

**Subject:** STATE BOARD PROJECTS AND PRIORITIES.

Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board appointments and direction to staff; declaratory and commendatory resolutions; Bylaw review and revision; Board policy; approval of minutes; Board liaison reports; training of Board members; State Superintendent of Public Instruction Report; State Board of Education President’s Report; and other matters of interest.

**Type of Action:** Action, Information

1. SBE Draft Preliminary Report of Actions/Minutes for the July 13-14, 2022 meeting
2. Board member liaison reports

**Recommendation:** The SBE staff recommends that the SBE:

1. Approve the Preliminary Report of Actions/Minutes for the July 13-14, 2022 meeting. (Attachment 1)

**ACTION:** Member Pattillo Brownson moved to approve the SBE staff recommendation to approve the Preliminary Report of Actions/Draft Minutes for the July 13-14, 2022 meeting.

Member Glover Woods seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, McQuillen, Olken, Orozco-Gonzalez, Pattillo Brownson, and Rodriguez.

**No votes:** None

**Member Absent:** None

**Abstentions:** Members Porter and Yoshimoto-Towery

**Recusals:** None

The motion passed with 9 votes.

### WAIVERS/ACTION AND CONSENT

The following agenda items include waivers that are proposed for consent and those waivers scheduled for separate action because CDE staff may have recommended denial or determined that they may present new or unusual issues. Waivers proposed for consent are so indicated on each waiver’s agenda item; however, any board member may remove a waiver from proposed consent and the item may be heard individually. Action different from that recommended by CDE staff may be taken.

Schoolsite Council Statute (Shared Schoolsite Council with Reduced Number and Composition)

#### Item W-01

**Subject:** Request by the **Northern Humboldt Union High School District** under the authority of California *Education Code* Section 65001(e) for waivers of California *Education Code* sections 65000 and 65001, relating to Schoolsite Councils regarding changes in shared, composition, or shared and composition members.

Waiver Number: 11-5-2022

(Recommended for APPROVAL WITH CONDITIONS)

Citizens Oversight Committee

#### Item W-02

**Subject:** Request by **Hacienda la Puente Unified** to waive portions of California *Education Code* Section 15282(a), relating to number of members and term limits for members of a Citizens’ Oversight Committee for all construction bonds in the district.

Waiver Number: 20-3-2022

(Recommended for APPROVAL WITH CONDITIONS)

Sale or Lease of Surplus Property (Lease of Surplus Property)

#### Item W-03

**Subject:** Request by **Jefferson Union High** to waive California *Education Code* sections specific to statutory provisions for the sale or lease of surplus property.

Waiver Number: 8-3-2022

(Recommended for APPROVAL WITH CONDITIONS)

Federal Program Waiver (Carl D. Perkins Voc and Tech Ed Act)

#### Item W-04

**Subject:** Request by **two school districts** for a waiver of Section 131(c)(1) of the Strengthening Career and Technical Education for the 21st Century Act (Public Law 115-224).

Waiver Number: Fed-4-2022

Fed-3-2022

(Recommended for APPROVAL)

Physical Education Program (Block Schedules)

#### Item W-05

**Subject:** Request by **Fortuna Union High** to waive portions of California *Education Code* Section 51222(a), related to the statutory minimum requirement of 400 minutes of physical education each 10 school days for students in grades nine through twelve in order to implement a block schedule at Fortuna High School.

Waiver Number: 1-4-2022

(Recommended for APPROVAL WITH CONDITIONS)

Physical Education Program (Block Schedules)

#### Item W-06

**Subject:** Request by **Placer Union High** to waive portions of California *Education Code* Section 51222(a), related to the statutory minimum requirement of 400 minutes of physical education each 10 school days for students in grades nine through twelve in order to implement a block schedule at Placer High School.

Waiver Number: 15-4-2022

(Recommended for APPROVAL WITH CONDITIONS)

Special Education Program (Child Specific/ NPA or NPS Certification)

#### Item W-07

**Subject:** Request by **Rialto Unified** to waive California *Education Code* (*EC*) Section 56366(d), the requirement for nonpublic, nonsectarian schools or agencies to be state-certified, to allow the use of federal and state special education funds for the placement of one student with disabilities at the Sandy Pines Residential Treatment Center (Sandy Pines) in Jupiter, Florida an uncertified school for students with disabilities with a residential treatment center (RTC).

Waiver Number: 7-5-2022

(Recommended for APPROVAL WITH CONDITIONS)

Special Education Program (Extended School Year (Summer School))

#### Item W-08

**Subject:** Request by **9 local educational agencies** to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days for an extended school year (summer school) for students with disabilities.

**Waiver Numbers:**

* Cascade Union Elementary School District 2-5-2022
* Gateway Unified School District 12-4-2022
* Mariposa County Office of Education 13-4-2022
* North Monterey County Unified School District 4-5-2022
* Paradise Unified School District 5-5-2022
* Shasta Union High School District 1-6-2022
* South Whittier Elementary School District 11-4-2022
* Summerville Union High School District 10-5-2022
* Tuolumne County Superintendent of Schools 15-5-2022

(Recommended for APPROVAL WITH CONDITIONS)

Physical Fitness Testing (Physical Fitness Testing)

#### Item W-09

**Subject:** Request by **Del Norte County Unified** to waive Ed Code 60800(a) to administer the physical performance test designated by the state board to grade 9 during the month of February, March, April, or May due to a 4x4 block schedule.

Waiver Number: 16-5-2022

(Recommended for APPROVAL)

**ACTION:** Member Rodriguez moved to approve the CDE recommendations for each waiver item on consent (Item W-01 through Item W-09).

Member Pattillo Brownson seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, McQuillen, Olken, Orozco-Gonzalez, Pattillo Brownson, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** None

**Member Absent:** None

**Abstentions:** None

**Recusals:** None

The motion passed with 11 votes.

#### *END OF WAIVER CONSENT ITEMS*

#### *REGULAR ITEMS CONTINUED – DAY 2*

#### Item 11

**Subject:** Appeal of the Denial of a Petition for the Establishment of a Classroom-Based Charter School Pursuant to California Education Code Section 47605(k)(2): Consideration of Evidence to Hear or Summarily Deny the Appeal of Mayacamas Charter Middle School, which was denied by the Napa Valley Unified School District and the Napa County Board of Education.

**Type of Action:** Action, Information

**Recommendation:** The CDE recommends that the SBE hear the Mayacamas Charter Middle School (MCMS) appeal. This recommendation is based upon the CDE’s review of MCMS’ written submission and the documentary record, which set out sufficient evidence to hear the appeal.

**ACTION:** Member Glover Woods moved to approve the CDE recommendation to hear the Mayacamas Charter Middle School appeal.

Member Olken seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, McQuillen, Olken, Orozco-Gonzalez, Pattillo Brownson, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** None

**Member Absent:** None

**Abstentions:** None

**Recusals:** None

The motion passed with 11 votes.

### PUBLIC HEARING

The following Public Hearing will commence no earlier than 9:00 a.m. on Thursday, September 15, 2022. The Public Hearing listed below will be held as close to 9:00 a.m. as the business of the State Board permits.

#### Item 12

**Subject:** Appeal of the Denial of a Petition for the Establishment of a Classroom-Based Charter School Pursuant to California Education Code Section 47605(k)(2): Consideration of the Allegations of Abuse of Discretion made by Mayacamas Charter Middle School, which was denied by the Napa Valley Unified School District and the Napa County Board of Education.

**Type of Action:** Action, Information, Public Hearing

**Recommendation:** The CDE recommends that the SBE affirm the Napa Valley Unified School District (NVUSD) and Napa County Board of Education (NCBOE) decisions to deny the petition to establish Mayacamas Charter Middle School (MCMS), pursuant to *EC* Section 47605(k)(2)(E), based on the CDE’s review of the documentary record and MCMS’ appeal, which fails to show an abuse of discretion by either NVUSD or NCBOE in their determinations to deny the MCMS petition.

**President Darling-Hammond opened the public hearing at 10:33 a.m.**

**President Darling-Hammond closed the public hearing at 12:13 p.m.**

**Action 1:** Member Glover Woods moved to affirm the decisions that the Napa Valley Unified School District and the Napa County Office of Education made to deny the petition to establish Mayacamas Charter Middle School.

Member Rodriguez seconded the motion.

**Yes votes:** Members Glover Woods, Lewis, Orozco-Gonzalez, Rodriguez, and Yoshimoto-Towery.

**No votes:** Members Darling-Hammond, Escobedo, McQuillen, Olken, Pattillo Brownson, and Porter.

**Member Absent:** None

**Abstentions:** None

**Recusals:** None

The motion failed with a vote of 5-6.

**Action 2:** Member Olken moved that the SBE reverse the determinations of the Napa Valley Unified School District Governing Board and the Napa County Board of Education to deny the petition of the Mayacamas Charter Middle School based on the SBE’s determination that an abuse of discretion did occur at both the district and county levels.

Member McQuillen seconded the motion.

**Member Olken withdrew her motion. Member McQuillen concurred.**

**Action 3:** Member Olken moved that the SBE reverse the determinations of the Napa Valley Unified School District Governing Board and the Napa County Board of Education to deny Mayacamas Charter Middle School based on the SBE’s determination that an abuse of discretion occurred at both the district and county levels.

At the county level, the county did not satisfy the requirements of *EC* Section 47605[c](7) and did not provide evidence in the documentary record that the proposed charter would substantially undermine existing services, offerings, or programs. Additionally, the district abused its discretion by failing to proceed in a manner required by law because it did not provide a fair and impartial hearing process.

Member Escobedo seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, McQuillen, Olken, Pattillo Brownson, and Porter

**No votes:** Members Glover Woods, Lewis, Orozco-Gonzalez, Rodriguez, and Yoshimoto-Towery

**Abstentions:** None

**Recusals:** None

The motion passed with 6 votes.

**Action 4:** **Delegation of oversight of Mayacamas Charter Middle School:** Member Olken moved to designate the county office of education as the oversight agency for the charter.

Member Escobedo seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, McQuillen, Olken, Orozco-Gonzalez, Pattillo Brownson, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** None

**Abstentions:** None

**Recusals:** None

The motion passed with 11 votes.

*ADJOURNMENT OF THE MEETING*

**President Darling-Hammond adjourned the meeting at approximately 1:30 p.m.**