

FINAL MINUTES
State Board of Education
February 5-6, 2003

Thursday, February 6, 2003

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

Members Present

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

Members Absent

Vacancy
Vacancy
Vacancy
Vacancy

Closed Session

The Board met in Closed Session from 8:05 a.m. to 9:25 a.m.

Call to Order: Public Session

President Hastings called the Public Session to order at 9:35 a.m.

Salute to the Flag

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

Closed Session Report

Ms. Steentofte reported that in the Closed Session just completed, the State Board considered, but took no action, on the following: *Chapman, et al., v. CDE, et al.*; *Boyd, et al., v. State of California, et al.*; and *Californians for Justice Education Fund, et al., v. California State Board of Education, et al.* The State Board also considered *Emma C. et al., v. Delaine Eastin, et al.*, and *Comité de Padres de Familia v. Honig*. With respect to both cases, the State Board took action to approve the recommendations of counsel. Finally, the State Board considered, but took no action, regarding an employment matter as permitted under *Government Code* Section 11126(a).

Announcements/Communications

President Hastings announced that Item 22, W-1, and W-2 had been withdrawn. He also informed the Board and the audience that Item 3, which had been left open the previous day, would not be considered further at this meeting. Similarly, Item 17 would not be considered further at this meeting.

FINAL MINUTES
State Board of Education
February 5-6, 2003

ITEM 19	Assignment of Numbers for Charter Schools.	ACTION
ITEM 20	Request to Fund the Recommended List of Public Charter Schools Grant Program Award Recipients.	ACTION
ITEM 21	High Priority Schools Grant Program Implementation Grant Awards.	ACTION
ITEM 23	Revision to the <i>California State Plan (1999-2004) for the Workforce Investment Act. Title II: Adult Education and Family Literacy Act</i> (revised May 30, 2002)	ACTION
ITEM 24	Appointments to Curriculum Development and Supplemental Materials Commission and Child Nutrition Advisory Council.	INFORMATION ACTION
ITEM 25	2002-03 (and beyond) Determination of Funding Requests from Charter Schools Pursuant to Senate Bill 740 (Chapter 892, Statutes of 2001), specifically Education Code Sections 47612.5 and 47634.2.	ACTION

President Hastings suggested that Items 19, 20, 21, 23, 24, and 25 be acted on as a group.

- ACTION: Mr. Abernethy moved that the State Board approve the actions recommended by staff (including those actions presented in supplemental agenda materials) for Items 19, 20, 21, 23, 24, and 25. Ms. Lee seconded the motion. The motion was approved by unanimous vote.

ITEM 22	Approval of 2002-2003 Consolidated Applications	ACTION
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This item was withdrawn because there were no applications to consider.

ITEM 26	Legislative Update: Including, but not Limited to, Information on Committee Appointments and Legislation	INFORMATION ACTION
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B. Teri Burns, Governmental Affairs Branch, reported on the mid-year budget reductions, including the program reductions and the deferment of the state's June revenue limit payment (general purpose funds) to July, thus shifting it into fiscal year 2003-04.

FINAL MINUTES
State Board of Education
February 5-6, 2003

**WAIVERS: CONSENT, WITHDRAWN, PROPOSED CONSENT, NON-CONSENT
CONSENT WAIVERS (WC-1 through WC-8)**

CARL D. PERKINS VOCATIONAL AND TECHNICAL EDUCATION ACT

ITEM WC-1	Request by Humboldt County Office of Education for a Waiver of Section 131(d)(1) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (P.L. 105-332). CDSIS-8-12-2002 (Recommended for APPROVAL)	ACTION
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CHARTER SCHOOL ATTENDANCE

ITEM WC-2	Request by the Center Joint Unified School District to waive Title 5 CCR Section 11960, related to charter school attendance for the Antelope View Charter School. CDSIS-5-12-2002 (Recommended for APPROVAL WITH CONDITIONS) <i>Education Code</i> Section 33051(c) will apply.	ACTION
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HIGH SCHOOL EXIT EXAMINATION (special education students)

ITEM WC-3	Request by Hemet Unified School District to waive <i>Education Code</i> Section 60851 (a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for one special education student #105. CDSIS-2-12-2002 (Recommended for APPROVAL).	ACTION
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ITEM WC-4	Request by Fallbrook Union High School District to waive <i>Education Code</i> Section 60851 (a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for four special education students #106, #107, #108, and #110. CDSIS-9-12-2002 (Recommended for APPROVAL)	ACTION
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RESOURCE SPECIALIST

ITEM WC-5	Request by Oak Grove 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 four students. Resource Specialist: Brenda Rypstra-Loman assigned at Stipe Elementary School. CDSIS-20-11-2002 (Recommended for APPROVAL)	ACTION
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FINAL MINUTES
State Board of Education
February 5-6, 2003

ITEM WC-6	Request by Reef-Sunset 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. Resource Specialist: David Witherow assigned at Reef-Sunset Middle School. CDSIS-6-12-2002 (Recommended for APPROVAL)	ACTION
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MILLER-UNRUH READING SPECIALIST

ITEM WC-7	Request by Livermore Valley Joint Unified School District to waive <i>Education Code</i> Section 52859(b). This request is related to the prohibition of using funds coordinated under the School-Based Coordinated Program (SBCP) to pay for the local share of costs associated with the employment of a Miller-Unruh Reading Specialist. CDSIS-15-12-2002 (Recommended for APPROVAL)	ACTION
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INSTRUCTIONAL MATERIALS SUFFICIENCY (Audit Findings)

ITEM WC-8	Request by one county office of education and three school districts for a retroactive waiver of <i>Education Code</i> (EC) Section 60019 regarding Annual Public Hearing on the availability of textbooks or instructional materials. These districts have audit findings for fiscal year 2001-2002 that they 1) failed to hold the public hearing, or 2) failed to properly notice (10 days) the public hearing. CDSIS# 06-01-2003 Bangor Union Elementary School District 19-12-2002 Butte County Office of Education 22-12-2002 Lake Tahoe Unified School District 18-12-2002 Rincon Valley Union School District 14-12-2002 San Carlos School District	ACTION
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Judy Pinegar, Waiver Office, noted there were no corrections to Items WC-1 through WC-8.

- ACTION: Mr. Nuñez moved that the State Board approve all of the requests in Items WC-1 through WC-8 in keeping with the recommendations of CDE staff. The motion incorporated the conditions recommended in Item WC-2, and the motion recognized that the provisions of *Education Code* Section 33051(c) would apply to the request in Item WC-2. Ms. Lee seconded the motion. The motion was approved by unanimous vote.

FINAL MINUTES
State Board of Education
February 5-6, 2003

WITHDRAWN WAIVERS (W-1 and W-2)

FEDERAL SUPPLEMENTAL SERVICES

ITEM W-1	Request by districts for a waiver of NCLB, Title I, Part A, Section 1116(e), the requirement to provide “supplemental services” to eligible students. CDSIS# -- To be determined (Recommended for)	ACTION
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ACADEMIC PERFORMANCE INDEX (adult testing irregularities)

ITEM W-2	Alhambra School District (ASD) Academic Performance Index (API Waiver). Specifically, the ASD requests a waiver of Title 5 CCR Section 1032(d)(1) and (3) to allow Mark Keppel High School to be included in the API for the current year (2002) or at least in the subsequent year (2003). The district had "adult testing irregularities." CDSIS-39-7-2002 (Recommended for DENIAL per <i>Education Code</i> Section 33051(a) (1), the educational needs of the pupils are not adequately addressed.	ACTION
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Ms. Pinegar reported that W-1, which was a placeholder item, had been withdrawn because there were no waivers to be considered at this time, and W-2 was withdrawn at the district’s request. Ms. Pinegar also informed the Board that there was an error in the coversheet for Waiver W-12. It erroneously states that the teachers’ union supports the waiver.

PROPOSED CONSENT WAIVERS (W-5, W-6, and W-7)

COMMUNITY DAY

ITEM W-5	Request by Fort Sage Unified School District for a waiver of <i>Education Code</i> Section 48916.1(d) and language in Section 48660 that limits the span of grades in which students must be separately served in a community day school operated by a unified school district to K-6 and 7-12. CDSIS-8-1-2003 (Recommended for APPROVAL WITH CONDITIONS) <i>Education Code</i> Section 33051(c) will apply	ACTION
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EQUITY LENGTH OF TIME

ITEM W-6	Request by Napa Valley Unified School District to waive <i>Education Code (EC)</i> Section 37202, equity length of time requirement for kindergarten students to allow full day kindergarten programs at eleven elementary schools out of the twenty-one elementary schools in the district. CDSIS-12-12-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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FINAL MINUTES
State Board of Education
February 5-6, 2003

NON PUBLIC SCHOOL/AGENCY (child specific)

ITEM W-7	Request by Cypress School District to waive <i>Education Code</i> (EC) Section 56366.1(a), certification requirements, for an uncertified nonpublic agency, Joanna Lofink, Speech & Language Pathologist to provide services to one special education student, Samuel T. CDSIS-40-7-2002 (Recommended for APPROVAL)	ACTION
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Ms. Pinegar reported that Waivers W-5, W-6, and W-7 were proposed consent waivers.

- ACTION: Mr. Abernethy moved that the State Board approve the requests in proposed consent Items W-5, W-6, and W-7 in keeping with the recommendations of CDE staff. The motion incorporated the conditions proposed in Item W-5 and W-6, and the motion recognized that the provisions of *Education Code* Section 33051(c) would apply to the request in Item W-5. Ms. Lee seconded the motion. The motion was approved by unanimous vote.

NON-CONSENT WAIVERS

BUDGET RESERVES

ITEM W-3	Request by San Diego Unified School District of portions of <i>Education Code</i> Section 33128(b) and Title 5 Regulation Section 15443 to lower its recommended level of budget reserves from two percent to one percent. CDSIS-4-11-2002 (Recommended for APPROVAL WITH CONDITION)	ACTION
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Ms. Pinegar summarized San Diego Unified School District's request and noted there was a letter from Senator Alpert in the agenda packet.

The following individual addressed the Board:

Peter Birdsall, representing San Diego Unified School District

- ACTION: Mr. Abernethy moved that the State Board approve the request in Item W-3 in keeping with the recommendation of CDE staff. The motion incorporated the condition proposed by CDE staff. Mr. Nuñez seconded the motion. The motion was approved by unanimous vote.

FINAL MINUTES
State Board of Education
February 5-6, 2003

CLASS SIZE REDUCTION (Option 1 funding)

ITEM W-4	Los Angeles Unified School District requests a waiver renewal of <i>Education Code</i> Section 52122 (b)(2)(A) and 52123 (c) for allowing 95 school sites with 200 or more students per acre to receive Option 1 Class Size Reduction funding. This is the fifth and final renewal for 73 schools and the fourth renewal for 22 schools. CDSIS-10-12-2002 (Recommended for APPROVAL)	ACTION
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Fred Yeager, School Facilities Planning Division, presented the Department's recommendation.

The following individuals from Los Angeles Unified School District addressed the Board:

Beth Hambly, Director, Facilities Grants and Funding
Tim Buresh, Chief Operating Officer
Bob Moehler, Construction Management
Peggy Barber, Legislative Office

Mr. Fisher expressed his concern over Los Angeles Unified School District's use of multiple architects and its impact on project cost and time. Mr. Abernethy concurred with Mr. Fisher's concerns. President Hastings suggested that Mr. Abernethy, as the Board's Los Angeles area member, share his concerns with Los Angeles Unified School District Superintendent Roy Romer.

Ms. Tacheny reminded the Board that she had asked last year for reports on the five most impacted schools. She commented that the Los Angeles USD faces enormous challenges. She described the situation at Cahuenga Elementary School and the extreme overcrowding conditions. Ms. Tacheny said that she was impressed by the benchmark report. She congratulated the district on making the difficult and courageous decisions that were necessary to build new schools.

- ACTION: Ms. Tacheny moved that the State Board approve the request in Item W-4 in keeping with the recommendation of CDE staff. Mrs. Ichinaga seconded the motion. The motion was approved by unanimous vote.

Ms. Tacheny asked that in the future, the Los Angeles USD report on site acquisition and groundbreaking for these five schools, along with the reports on the 22 sites that remain in the waiver program.

FINAL MINUTES
State Board of Education
February 5-6, 2003

INSTRUCTIONAL MATERIALS FUND PETITION REQUEST

ITEM W-8	Petition request under <i>Education Code</i> Section 60421(d) and 60200(g) by North Sacramento School District to purchase nonadopted Instructional Resources (Houghton Mifflin Mathematics, Grade 6) using Instructional Materials Funding Realignment Program (IMFRP) monies. CDSIS-14-11-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM W-9	Petition request under <i>Education Code</i> Section 60421(d) and 60200(g) by Poway Unified School District to purchase Instructional Resources (Everyday Mathematics, Grades K-3, c. 2001, and Grades 4 – 6, c. 2002) using Instructional Materials Funding Realignment Program (IMFRP) monies. CDSIS-23-12-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM W-10	Petition request under <i>Education Code</i> Section 60421(d) and 60200(g) by Glendale Unified School District to purchase Instructional Resources (Everyday Mathematics, Grades K-3, c. 2001, and Grades 4 – 6, c. 2002) using Instructional Materials Funding Realignment Program (IMFRP) monies. CDSIS-17-11-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM W-11	Petition request under <i>Education Code</i> Section 60421(d) and 60200(g) by Lake Tahoe Unified School District to purchase Instructional Resources (Everyday Mathematics, Grades K-3, c. 2001; and Grades 4 – 6, c. 2002) using Instructional Materials Funding Realignment Program (IMFRP) monies. CDSIS-12-11-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION

Ms. Pinegar explained that W-8, W-9, W-10, W-11 are waiver requests that are new to the Board in that the funding source is new, but the instructional materials programs for which the waivers are requested have been before the Board in previous waivers.

President Hastings commented that all the waivers are very similar and could be acted on as a group.

- ACTION: Mr. Abernethy moved that the State Board approve the requests in Items W-8, W-9, W-10, and W-11 in keeping with the recommendations of CDE staff. The motion incorporated the conditions in each of these items. Mrs. Ichinaga seconded the motion. The motion was approved by unanimous vote.

FINAL MINUTES
State Board of Education
February 5-6, 2003

SPECIAL ELECTION/PROVISIONAL APPOINTMENT

ITEM W-12	Request by Compton Unified School District to waive <i>Education Code</i> Section 5091(a), the provisional appointment or special election requirement within 60 days of a school board vacancy, in order to postpone the election to fill a vacant school board position until November of 2003. CDSIS-14-1-2002 (Recommended for APPROVAL)	ACTION
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Mr. Pinegar noted that this type of waiver had not been brought to this Board for consideration before, but previous Board’s have acted on such waivers. (Ms. Pinegar had earlier informed the Board of an error on the coversheet for Item W-12, which erroneously states that the teachers’ union supports the waiver.)

The following individuals addressed the Board:
Keith Beeman, Associate Superintendent, Compton Unified School District
Don Bridge, California Teachers Association

Superintendent O’Connell reported that the district’s state administrator supports the waiver.

- ACTION: Ms. Tacheny moved that the State Board approve the request in Item W-12. Mrs. Ichinaga seconded the motion. The motion was approved by a vote of 6-1. Mr. Nuñez voted against the motion.

Later in the meeting, following a correction on one point discussed in regard to Item W-12 (the length of the term if an appointment was made), President Hastings offered the opportunity for a motion to be made to reconsider the action taken on Item W-12. No motion for reconsideration was made.

ITEM 28	Career Technical Education (CTE) Standards and Framework.	INFORMATION
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Pat Ainsworth, High School Leadership Division, informed the Board of the statutory deadlines for the development of career technical education standards and framework. He noted that the statute calls for an advisory commission and specifies the types of individuals to be appointed to the commission.

President Hastings thanked Mr. Ainsworth for providing this information to the Board members. Ms. Tacheny commented that the process for developing these standards will be different than the process for the core academic content standards. For many industries, there are industry standards that should be considered in the development of the standards. Mr. Ainsworth stated that staff has already begun researching various industry standards and also what other states are doing.

The following individual addressed the Board:
Silvia DeRuvo, California Association of Resource Specialists and Special Education Teachers

FINAL MINUTES
State Board of Education
February 5-6, 2003

Announcement of Resignation of California Department of Education General Counsel

President Hastings stated it was with regret that he was announcing that California Department of Education General Counsel Linda Cabatic had accepted a new position with Governor Davis' office and would be leaving the Department. He remarked that Ms. Cabatic had made an enormous contribution, both technically and in terms of promoting a harmonious relationship between Department staff and the Board.

Superintendent O'Connell thanked Ms. Cabatic for doing a great job, especially recruiting outstanding staff to the Department's Legal Office.

ITEM 27	Title 5 Regulations on Administration of Medication to Pupils at Public Schools.	PUBLIC HEARING ACTION
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Kathy Lewis, Child, Youth, and Family Services Branch, reviewed the proposed regulations and the process of their development. She also summarized the comments received to date. She indicated that Department staff had a set of proposed amendments to be considered following the public hearing.

President Hastings opened the Public Hearing at 11:08 a.m.

The following individuals addressed the Board:

- Corinne Sanfilippo, teacher
- Patricia Klotz, California State PTA
- Sheila McConville, Oak Grove School District
- Judy Lewis, Oakland/Berkeley Asthma Partnership for School-Aged Children
- Elizabeth Dietz, American Association of Nurses/California
- Ann Albright, American Diabetes Association
- Jean McCullough-Stiles, San Francisco School District
- Molly Gaylord
- Martha Diaz, Californians Together Coalition
- Curtis Washington, California Teachers Association
- Carlo Michelotti, California Pharmacists Association
- Sharon Thompson, California School Nurses Association
- Ann Kinkor
- Larry Komar
- Candy McDonald

President Hastings closed the Public Hearing at 12:20 p.m.

- ACTION: Mr. Nuñez moved that the State Board amend the proposed regulations as recommended by CDE staff and direct that the amended regulations be circulated for 15-day public review in accordance with the Administrative Procedure Act. It is the expectation of the State Board that the amended regulations will return for further consideration (including the possibility of adoption in the amended form) at the March 2003 meeting. Mrs. Ichinaga

FINAL MINUTES
State Board of Education
February 5-6, 2003

seconded the motion. The motion was approved by unanimous vote of the members present. Mr. Abernethy was not present when the action was taken.

Ms. Tacheny thanked the speakers for their testimony and commented that the amended proposed regulations address many of the speakers' issues.

Mr. Geeting stated that Superintendent O'Connell and his staff have done an excellent job of presenting to the Board a well-crafted set of regulations in relationship to the provisions of the underlying statute. The regulations are entirely consistent with statute in terms of providing assistance to pupils with their medication.

ITEM 29	California English Language Development Test (CELDT): Title 5 Regulations	PUBLIC HEARING ACTION
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Mr. Spears reported that no comments were received during the public comment period.

President Hastings opened the Public Hearing at 12:35 p.m.

There were no speakers.

President Hastings closed the Public Hearing at 12:35 p.m.

- ACTION: Mr. Nuñez moved that the State Board approve the regulations as presented in the agenda item. Mrs. Ichinaga seconded the motion. The motion was approved by unanimous vote of the members present. Mr. Abernethy was not present when the vote was taken.

Adjournment: President Hastings adjourned the meeting at 12:36 p.m.