**CALIFORNIA DEPARTMENT OF EDUCATION**

TONY THURMOND

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

# Notice of Proposed Rulemaking

## **Amendment to California Code of Regulations, Title 5, Regarding Instructional Materials Sufficiency**

Notice published December 6, 2024

**Notice is Hereby Given** that the State Superintendent of Public Instruction (SSPI) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

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

### Public Hearing

California Department of Education (CDE) staff, on behalf of the SSPI, will hold a virtual public hearing at 9:00 a.m. on January 21, 2025.

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

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

<https://us02web.zoom.us/j/86446802621>

Passcode: 443949

* To connect with audio only and no video, call one of the following telephone numbers and enter the meeting ID and passcode:
* 669-900-6833
* 213-338-8477
* Meeting ID: 864 4680 2621
* Passcode: 443949

Persons intending to attend the Zoom meeting may check their computers by:

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

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

### Reasonable Accommodation for any Individual with a Disability

Pursuant to the *Rehabilitation Act of 1973,* the *Americans with Disabilities Act of 1990,* any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting David Almquist, Curriculum Frameworks and Instructional Materials Division, 1430 N Street, Sacramento, CA, 95814 or email dalmquis@cde.ca.gov. The CDE recommends that individuals request assistance at least two weeks prior to the hearing.

### Written Comment Period

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

Lorie Adame, Regulations Coordinator
Administrative Support and Regulations Adoption Unit
California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

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

Comments must be received by the Regulations Coordinator prior to or on January 21, 2025. All written comments received by CDE staff during the public comment period are subject to disclosure under the Public Records Act.

### Authority and Reference

Authority: Section 33315, California Education Code

References: Section 35186, California Education Code

### Informative Digest/Policy Statement Overview

This regulations development package proposes to create section 4685.5 within Division 1 of Title 5 of the California Code of Regulations (5 CCR) to facilitate implementation of California Education Code (EC) Section 35186(d) which became effective September 25, 2023, as chaptered by Assembly Bill 1078, statutes of 2023.

EC section 35186 stipulates that school districts shall use the uniform complaint process to help identify and resolve any deficiencies related to instructional materials, emergency or urgent facilities conditions, and teacher vacancy or misassignment. This statute directs complainants in their filing; the district in its investigation; the complainant in appeal; district policy and procedures development; district posting notifications regarding the right to file complaints; and district reporting.

EC section 35186(d), newly added by the State Legislature and Governor, provides complainants with the additional right to file a complaint regarding instructional materials insufficiency, as defined in EC section 60119, directly with the State Superintendent of Public Instruction (SSPI). That section provides that the Superintendent “may” decide to directly intervene without waiting for a local investigation; that the complainant shall identify the basis for filing directly with the Superintendent; and that the complainant shall present the Superintendent with evidence that supports the basis for the direct filing.

Proposed 5 CCR section 4685.5 will specify the procedural requirements to implement the complaint process authorized by EC section 35186(d).

#### **Policy Statement Overview**

These proposed regulations will facilitate the requirements of a new statute, EC section 35186(d), that provides complainants with the opportunity to file complaints regarding instructional materials insufficiency directly with the SSPI. The regulations will provide helpful clarification and specification as to the required contents of such complaints, and the required actions of the CDE upon the SSPI accepting a complaint for direct intervention, and upon declining a complaint for direct intervention, respectively.

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

The proposed regulations may benefit the students and stakeholders in the State of California’s education system by facilitating implementation of existing ECsection 35186 permitting the filing of instructional materials sufficiency complaints directly with the SSPI for consideration of investigation and remedy.

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

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

### Disclosures Regarding the Proposed Action/ Fiscal Impact

The SSPI has made the following initial determinations:

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

**Mandate on local agencies and school districts:** None

**Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code:** None

**Cost or savings to any state agency**: None

**Other non-discretionary costs or savings imposed on local agencies, including local educational agencies:** None

**Costs or savings in federal funding to the state:** None

**Effect on housing costs:** None

**Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states:** None

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

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

**Effect on small businesses:** The proposed regulations will not affect any small business because they address a complaint process regarding local insufficient implementation of instructional materials programs.

### Results of the Economic Impact Analysis/Assessment

**Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment – Gov. Code Section 11346.5(a)(10):** The SSPI concludes that it is unlikely that these proposed regulations will: 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

**Benefits of the Proposed Action:** The proposed regulations may benefit the health and welfare of California residents as the proposed regulations will facilitate implementation of existing ECsection 35186 permitting the filing of instructional materials sufficiency complaints directly with the SSPI for consideration of investigation and remedy.

### Consideration of Alternatives

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

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

### Contact Persons

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

David Almquist, Education Programs Consultant
Curriculum Frameworks and Instructional Resources Division
California Department of Education
1430 N Street
Sacramento, CA 95814
Email: dalmquis@cde.ca.gov

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

### Availability of Initial Statement of Reasons, Text of Proposed Regulations and Information

As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations, the Initial Statement of Reasons (ISOR) and Fiscal and Economic Impact Statement (STD. 399). These documents upon which the proposed action is based may be obtained upon request from the Regulations Coordinator. In addition, this Notice, the text of the proposed regulations and the ISOR may also be viewed on CDE’s website at [http://www.cde.ca.gov/re/lr/rr/.](http://www.cde.ca.gov/re/lr/rr/)

### Availability of Changed or Modified Text

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

### Availability and Location of the Final Statement of Reasons and Rulemaking File

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

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

### Availability of Documents on the Internet

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications highlighted, as well as the Final Statement of Reasons, when completed, and modified text, if any, can be accessed via CDE’s website at [http://www.cde.ca.gov/re/lr/rr/.](http://www.cde.ca.gov/re/lr/rr/%22%20%5Co%20%22California%20Department%20of%20Education%20Regulations%20Web%20Page)

11-25-2024 [California Department of Education]