#  Initial Statement of Reasons

Instructional Materials Sufficiency

## Introduction

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).

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

### Problem Agency Intends to Address

EC section 35186 authorizes the uniform complaint procedure and establishes basic procedural specifications regarding deficiencies related to instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of pupils or staff, and teacher vacancy or misassignment. Existing 5 CCR sections 4680–4687 detail the procedural processes to implement EC section 35186. Assembly Bill No. 1078 (Stats. 2023) added new EC section 35186, which: permits the filing of a complaint of insufficiency of textbooks or instructional materials as the result of an act by the governing board of a school district, or the governing board’s failure to act to remedy the deficiency, with the SSPI directly; provides that the SSPI “may” directly intervene without waiting for a local investigation; and provides that the complainant shall identify the basis for, and evidence supporting, the filing of the complaint directly with the SSPI.

Existing regulations specify the following:

5 CCR section 4680 stipulates that complaints must be filed with the school site principal.

5 CCR section 4681 describes requirements relating to complaints regarding instructional materials sufficiency.

5 CCR section 4685 describes the investigative responsibility of the school site principal, and 5 CCR section 4686 describes the right of a complainant unsatisfied with the principal’s investigative conclusions to bring the matter to the local governing board.

In matters of emergency or urgent issues regarding facilities, 5 CCR section 4687 allows a complainant ultimately to appeal to the SSPI. There is no such provision permitting appeal of an instructional materials sufficiency complaint to the SSPI.

For complaints regarding instructional materials sufficiency, there is currently no regulatory provision for filing a complaint with the SSPI. EC section 35186(d) now provides that authority, and the proposed new 5 CCR section 4685.5 will establish the process.

Accordingly, 5 CCR section 4685.5, as proposed, is necessary to update 5 CCR sections 4680­–4687 to implement newly amended EC section 35186(d).

### Benefits Anticipated from Regulatory Action

* Facilitates the requirements of new statute, EC section 35186(d).
* Clarifies and specifies the required contents of complaints regarding text books and instructional materials insufficiency that are filed directly with the SSPI.
* Clarifies and specifies required actions of the CDE upon the SSPI accepting a complaint for direct intervention, and upon declining a complaint for direct intervention, respectively.

### Specific Purpose of each Section – Gov. Code Section 11346.2(b)(1)

The specific purpose of each adoption or amendment, and the rationale for the determination that each adoption or amendment is reasonably necessary to carry out the purpose of which it is proposed, together with a description of the public problem, administrative requirement, or other condition or circumstance that each adoption or amendment is intended to address, is as follows:

**Section 4685.5(a)** is added to stipulate that a complaint filed directly with the SSPI alleging that more than one pupil does not have sufficient instructional materials as the result of local governing board action or inaction must meet the requirements of subsequent subsections 4685.5(a)(1–3).

**Section 4685.5(a)(1)** is added to stipulate that complaints filed directly with the SSPI may allege issues described in existing section 4681(a) and must identify the information specified in existing section 4681(b).

**Section 4685.5(a)(2)** is added to clarify that a complaint about an instructional materials insufficiency resulting from an act of the governing board or the governing board’s failure to act to remedy the deficiency, as set forth in EC 35186(d), must specifically identify the relevant act or failure to act that is the subject of the complaint.

**Section 4685.5(a)(3)** is added to clarify that, given that Education Code 35816(d) provides that the SSPI “may” choose to directly intervene, a complaint filed directly with the SSPI must provide evidence as to why direct state intervention would be appropriate as to this particular complaint.

**Section 4685.5(b)** is added to stipulate that the SSPI or their designee must determine promptly whether to accept the complaint for investigation.

**Section 4685.5(c)** is added to describe the required actions of the California Department of Education (CDE) when the SSPI or their designee accepts a complaint. This section identifies those actions to include notifying in writing both the complainant and the affected school district; investigating the complaint; determining any required corrective actions; and providing a written determination to the complainant and the local governing board.

**Section 4685.5(d)** is added to allow a complainant or a school district to appeal the SSPI’s determination within 15 business days on the basis of at least one condition identified in subsequent subsections 4685.5(d)(1–4).

**Section 4685.5(d)(1)** is added to identify one possible condition for a school district’s appeal of an SSPI’s determination; this condition is that the CDE’s Determination lacks material findings of fact.

**Section 4685.5(d)(2)** is added to identify one possible condition for a school district’s appeal of an SSPI’s determination; this condition is that the CDE’s Determination lacks substantial evidence in its material findings of fact.

**Section 4685.5(d)(3)** is added to identify one possible condition for a school district’s appeal of an SSPI’s determination; this condition is that the CDE’s Determination is inconsistent with the law.

**Section 4685.5(d)(4)** is added to identify one possible condition for a school district’s appeal of an SSPI’s determination; this condition is that, in the case of a CDE-determined valid complaint, the CDE’s proposed corrective action(s) fails to provide a proper remedy.

**Section 4685.5(e)** is added to provide that within 60 business days of receiving a school district appeal of an SSPI’s determination, the CDE will respond in writing to all parties. This section provides that in the absence of court intervention, the determination and any corrective actions therein will remain in effect and enforceable during these 60 days. The CDE’s ultimate response may include a denial of reconsideration of the determination or modification of the determination for factual and legal accuracy.

**Section 4685.5(f)** is added to stipulate that should the SSPI or their designee not accept the initial complaint, that is, should the SSPI or their designee exercise their discretion not to directly intervene, the CDE will promptly notify both the complainant and school district in writing, and forward the complaint to the school district for appropriate action pursuant to existing section 4685.

## Economic Impact Assessment per Gov. Code Section 11346.3(b)

### Purpose:

The proposed regulations will have no economic impact on the State, its agencies, nor the public.

**Creation or Elimination of Jobs within the State of California:** The proposed regulations will have no impact on jobs within the State of California.

**Creation of New or Elimination of Existing Businesses within the State of California:** The proposed regulations will have no impact on businesses within the State of California.

**Expansion of Businesses or Elimination of Businesses Currently Doing Business within the State of California:** The proposed regulations will have no impact on the expansion or elimination of businesses within the State of California.

**Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment – Gov. Code Section 11346.1(b)(1):** The proposed regulations may benefit the students and stakeholders in the State of California’s education system by facilitating implementation of existing EC section 35186 permitting the filing of instructional materials sufficiency complaints directly with the SSPI for consideration of investigation and remedy.

These proposed regulations will have no adverse effect nor benefit on worker safety or the State’s environment.

**Reasonable Alternatives that Would Lessen the Impact on Small Businesses – Gov. Code Section 11346.2(b)(4)(B):** The SSPI has not identified any alternatives that would lessen any adverse impact on small business.

**Evidence Relied Upon to Support the Initial Determination that the Regulations Will Not Have a Significant Adverse Economic Impact on Business – Gov. Code Section 11346.2(b)(5):** The proposed regulations would not have a significant adverse economic impact on any business because they address a complaint process regarding local insufficient implementation of instructional materials programs.

### Other Required Showings

**Studies, Reports or Documents Relied Upon – Gov. Code. Section 11346.2(b)(3):** The SSPI did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the adoption, amendment, or repeal of these regulations.

**Reasonable Alternatives Considered or Agency’s Reasons for Rejecting Those Alternatives – Gov. Code Section 11346.2(b)(4)(A):** No other alternatives were presented to or considered by the SSPI.

**Analysis of Whether the Regulations are an Efficient and Effective Means of Implementing the Law in the Least Burdensome Manner – Gov. Code Section 11346.3(e):** The proposed regulations have been determined to be the most efficient and effective means of implementing the law in the least burdensome manner.

**Determination of Inconsistent/Incompatible Existing Regulations – Gov. Code Section 11346.5(a)(3)(D):** An evaluation of the proposed regulations has determined they are not inconsistent/incompatible with existing regulations, pursuant to Gov. Code section 11346.5(a)(3)(D).

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