

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

imab-adad-jan24item01

# California State Board of EducationJanuary 2024 AgendaItem #09

## Subject

California High School Proficiency Examination: Adopt the Final Statement of Reasons and the Proposed Amendments to the California Code of Regulations, Title 5, Section 11520.

## Type of Action

Action, Information, Consent

## Summary of the Issue(s)

The *California Code of Regulations*, Title 5, (5 *CCR*) Section 11520 must be updated and revised to include definitions that clarify a student’s eligibility to take the proficiency examination and the administration costs associated with the fee.

## Recommendation

The California Department of Education (CDE) recommends the State Board of Education (SBE) take the following actions:

* Approve the Final Statement of Reasons
* Adopt the proposed regulations
* Authorize the CDE to take any necessary action to respond to any direction or concern expressed by the Office of Administrative Law during its review of the Final Statement of Reasons.

## Brief History of Key Issues

California *Education Code* (*EC*) Section 48412 provides for the administration of an examination to verify an eligible test taker’s proficiency in basic skills taught in high school. The law requires the SBE to award a certificate of proficiency to persons who demonstrate that proficiency. The law further requires the CDE to develop standards of competency in basic skills taught in public high schools and to provide for the administration of examinations prepared by, or with the approval of, the CDE to verify competency.

New definitions are needed to align 5 *CCR* Section 11520 with the eligibility criteria in *EC* Section 48412(a)(1). This is to clarify that payment is required at the time of the examination registration or when requesting services, and administration fees are comprised of different costs.

The objective of the proposed definition for “eligibility” is to confirm how the student shall demonstrate enrollment as required in *EC* Section 48412(a)(1).

In *EC* Section 48412(c)(1), “fee” is defined to be “an amount sufficient to recover the costs” to administer the test. This amount is a combination of costs, which includes vendor, testing center, and state administration costs, as well as costs for additional score reports or certificates if needed.

Thus, 5 *CCR* Section 11520 must be updated to ensure that the public understands what is necessary to verify eligibility to take the examination and that the administration fee (cost of the examination) is made up of multiple fees.

## Summary of Previous State Board of Education Discussion and Action

In July 2023, the SBE authorized the beginning of the rulemaking process and commencement of a 45-Day Public Comment Period for Proposed Amendments to
5 *CCR,* Section 11520 (<https://www.cde.ca.gov/be/ag/ag/yr23/documents/jul23item05.docx>).

In October 2022, the CDE notified the SBE that on July 1, 2023, the California High School Proficiency Examination will transition to the use of the high school equivalency (HSE) subtests for language arts and mathematics to demonstrate their basic proficiency (<https://www.cde.ca.gov/be/pn/im/documents/oct22memoadad02.docx>).

In June 2019, the CDE notified the SBE of the status of the three HSE testing programs (<https://www.cde.ca.gov/be/pn/im/documents/memo-pptb-adad-jun19item01.docx>).

In March 2014, the SBE authorized the use of the official tests for the HSE Examination (<https://www.cde.ca.gov/be/ag/ag/yr14/documents/mar14item12.doc>).

## Fiscal Analysis

An Economic and Fiscal Impact Statement is provided as Attachment 3.

## Attachment(s)

* Attachment 1: Final Statement of Reasons (1 page)
* Attachment 2: Proposed Regulations (1 page)
* Attachment 3: Economic and Fiscal Impact Statement (STD. 399) (5 pages)

**FINAL STATEMENT OF REASONS**

High School Proficiency Program

**UPDATE OF INITIAL STATEMENT OF REASONS**

The original proposed text was made available for public comment for at least 45 days from August 11, 2023, through September 26, 2023, inclusive. No individuals provided comments during the 45-day comment period.

A public hearing was held via videoconference on September 26, 2023, at 9:30 A.M.Seven individuals attended the public hearing, and no oral comments were received at the public hearing.

**ALTERNATIVES DETERMINATION**

The State Superintendent of Public Instruction has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

No alternatives have been brought to the agency’s attention and given the underlying statutory requirements; the agency has been unable to come up with any reasonable alternatives.

The nonadoption of these changes is not a suitable alternative because the benefits of using these definitions provide the public consistency and clarity regarding the criteria for eligibility to take a test of proficiency, and what costs are included in the fee charged to the test taker to register for an examination.

**LOCAL MANDATE DETERMINATION**

The proposed regulations do not impose any mandate on local agencies or school districts.

10-18-2023 [California Department of Education]

The State Board of Education has illustrated changes to the original text in the following manner: text originally proposed to be added is underlined; text proposed to be deleted is displayed in ~~strikeout~~.

# Title 5. EDUCATION

## Division 1. California Department of Education

### Chapter 11. Special Programs

#### **Subchapter 8. High School Proficiency Certificates**

##### **Article 1. Certificate of Proficiency**

###### **§ 11520. Definitions.**

 (a) “Certificate” means a certificate of proficiency awarded by the State Board of Education (SBE) as described in Education Code section 48412(a)(2).

 (b) “Certification” means documentation from a services provider, or a county or state agency, certifying the examinee is a homeless youth or a foster youth.

 (c) “Eligibility” shall be verified by the student’s demonstration of a local educational agency-issued official or unofficial transcript showing current enrollment.

 (d) “Fee” refers to a payment that shall be submitted at the time of registration or when requesting services such as ordering additional score reports or certificates.

 (~~c~~e) “Parent” as used in Education Code section 48410(e), relating to verified parental approval, means the natural parent, or adoptive parent or legal guardian, having legal custody of the pupil.

 (~~d~~f) “Testing accommodations” means any variation in the assessment environment or process that does not fundamentally alter what the test measures or affect the comparability of scores.

NOTE: Authority cited: Sections 48410 and 48412, Education Code. Reference: Sections 48410 and 48412, Education Code.

06-20-2023 [California Department of Education]