

**ITEM 4**  
**TEST CLAIM**  
**FINAL STAFF ANALYSIS**  
**AND**  
**PROPOSED STATEMENT OF DECISION**

Education Code Section 60601, as added and amended by Statutes 1995, Chapter 975, Section 1 (AB 265); Statutes 1996, Chapter 69, Section 1 (SB 430); Statutes 2001, Chapter 722, Section 2 (SB 233); Statutes 2004, Chapter 233, Section 1 (SB 1448); Statutes 2007, Chapter 174, Section 11 (SB 80); and Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapter 2, Section 9 (SBX5 1);

Education Code Sections 48353, 48354, 48355, 48356, 48357, 48358, 48359, 48359.5, 48360 and 48361, as added by Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapter 3, Section 1 (SBX5 4);

Education Code Sections 53100, 53101, 53200, 53201, 53201.5, 53202 and 53203, as added by Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapter 2, Section 8 (SBX5 1);

Education Code Sections 53300, 53301 and 53303, as added by Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapter 3, Section 2 (SBX5 4);

California Code of Regulations, Title 5, Section 4702 (Register 2010, No. 32)

*Race to the Top*  
10-TC-06

Twin Rivers Unified School District, Claimant

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Department of Finance Comments on Draft Staff Analysis and Proposed Statement of Decision dated March 4, 2014 ..... 178

**Exhibit F**

Supporting Documentation

Senate Appropriations Committee, Fiscal Summary on SBX5 1 (Romero), Statutes 2009 (1999-2010 Reg. Sess.), chapter 2, page 4 ..... 187

California Department of Education, Frequently Asked Questions, Open Enrollment Act, Senate Bill 4 of the Fifth Extraordinary Session (SBX5 4.)..... 191

California Department of Education, Funding Results: School Improvement Grant (April 2013.) . ..... 197

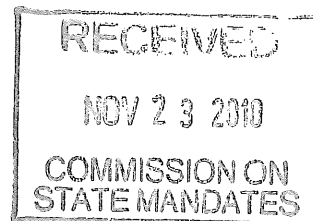
Legislative Analyst’s Office, Race to the Top: An Update and Key Issues for Phase 2 (May 12, 2010.) ..... 203

U.S. Department of Education, Race to the Top Program Executive Summary (November 2009), page 4. .... 210

The List of schools on the Open Enrollment List for 2012-2-13, 2013-2-14 and 2014-2015 can be found at: <http://www.cde.ca.gov/sp/eo/op> (as of March 10, 2014)... ..... 225

**COMMISSION ON STATE MANDATES  
TEST CLAIM FORM**

Authorized by Government Code section 17553  
(Revised 1/2005)



**GENERAL INSTRUCTIONS**

- Local agency and school district test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.
- Type all responses.
- Complete sections 1 through 8, as indicated. Failure to complete any of these sections will result in this test claim being returned as incomplete.
- Original test claim submissions shall be unbound, single-sided, and without tabs. Copies may be double-sided, but unbound and without tabs.
- Mail, or hand-deliver, one original and seven copies of your test claim submission to:

**Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814**

*Within ten (10) days of receipt of a test claim, or its amendment, Commission staff will notify the claimant or claimant representative whether the submission is complete or incomplete. Test claims will be considered incomplete if any of the required sections are not included or are illegible. If a completed test claim is not received within thirty (30) calendar days from the date the incomplete test claim was returned, the executive director may disallow the original test claim filing date. A new test claim may be accepted on the same statute or executive order alleged to impose a mandate.*

You may download this form from our website! If you have any questions, please contact us:

Web Site: [www.csm.ca.gov](http://www.csm.ca.gov)  
Telephone: (916) 323-3562  
Fax: (916) 445-0278  
E-Mail: [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov)

Received  
December 16, 201

Commission on  
State Mandates

Filing Date: 12/16/2010  
12/16/2010  
COMMISSION ON  
STATE MANDATES  
Test Claim #:

1. TEST CLAIM TITLE

RACE TO THE TOP

2. CLAIMANT INFORMATION

Twin Rivers Unified School District  
Name of Local Agency or School District

Robert Roach  
Claimant Contact

Mandated Cost Analyst  
Title

3222 Winona Way  
Street Address

North Highlands, CA 95660

City, State, Zip  
(916) 566-1600, ext. 50136

Telephone Number

Fax Number  
rob.roach@twinriversusd.org

E-Mail Address

3. CLAIMANT REPRESENTATIVE  
INFORMATION

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Arthur M. Palkowitz  
Claimant Representative Name

Attorney at Law  
Title

Stutz Artiano Shinoff & Holtz  
Organization

5488 Historic Decatur Road, Suite 200  
Street Address

San Diego, CA 92106  
City, State, Zip

(619) 232-3122

Telephone Number  
(619) 232-3264

Fax Number  
apalkowitz@stutzartiano.com

E-Mail Address

4. TEST CLAIM STATUTES OR  
EXECUTIVE ORDERS CITED

Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.

SBX 5

1. Ed. Code section 53100, Section 8 (Added Stats 2009-2010 ch 2 § 8 (SB 1), effective April 13, 2010.)
2. Ed. Code section 53101, Section 8 (Added Stats 2009-2010 ch 2 § 8 (SB 1), effective April 13, 2010.)
3. Ed. Code section 53200, Section 8 (Added Stats 2009-2010 ch 2 § 8 (SB 1), effective April 13, 2010.)
4. Ed. Code section 53201, Section 8 (Added Stats 2009-2010 ch 2 § 8 (SB 1), effective April 13, 2010.)
5. Ed. Code section 53201.5, Section 8 (Added Stats 2009-2010 ch 2 § 8 (SB 1), effective April 13, 2010.)
6. Ed. Code section 53202, Section 8 (Added Stats 2009-2010 ch 2 § 8 (SB 1), effective April 13, 2010.)
7. Ed. Code section 53203, Section 8 (Added Stats 2009-2010 ch 2 § 8 (SB 1), effective April 13, 2010.)
8. Ed. Code section 60601, Section 9 (Added Stats 1995 ch 975 § 1 (AB 265). Amended Stats 1996 ch 69 § 1 (SB 430), effective June 21, 1996, operative until January 1, 2002; Stats 2001 ch 722 § 2 (SB 233); Stats 2004 ch 233 § 1 (SB 1448), repealed January 1, 2011; Stats 2007 ch 174 § 11 (SB 80), effective August 24, 2007, repealed January 1, 2012; Stats 2009-2010 5th Ex Sess ch 2 § 9 (SB 1), effective April 13, 2010, inoperative July 1, 2013, repealed January 1, 2014.)

SBX 4

(The code sections are listed on page 5.)

- Copies of all statutes and executive orders cited are attached.

Sections 5, 6, and 7 are attached as follows:

5. Written Narrative: pages 6 to 16
6. Declarations: pages 17 to 24
7. Documentation: pages 25 to (1-84)

Sections 5, 6, and 7 should be answered on separate sheets of plain 8-1/2 x 11 paper. Each sheet should include the test claim name, the claimant, the section number, and heading at the top of each page.

## 5. WRITTEN NARRATIVE

Under the heading "5. Written Narrative," please identify the specific sections of statutes or executive orders alleged to contain a mandate.

Include a statement that actual and/or estimated costs resulting from the alleged mandate exceeds one thousand dollars (\$1,000), and include all of the following elements for each statute or executive order alleged:

- (A) A detailed description of the new activities and costs that arise from the mandate.
- (B) A detailed description of existing activities and costs that are modified by the mandate.
- (C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.
- (D) The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.
- (E) A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.
- (F) Identification of all of the following funding sources available for this program:
  - (i) Dedicated state funds
  - (ii) Dedicated federal funds
  - (iii) Other nonlocal agency funds
  - (iv) The local agency's general purpose funds
  - (v) Fee authority to offset costs
- (G) Identification of prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate.

## 6. DECLARATIONS

Under the heading "6. Declarations," support the written narrative with declarations that:

- (A) declare actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate;
- (B) identify all local, state, or federal funds, and fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs;
- (C) describe new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program (specific references shall be made to chapters, articles, sections, or page numbers alleged to impose a reimbursable state-mandated program); and
- (D) are signed under penalty of perjury, based on the declarant's personal knowledge, information or belief, by persons who are authorized and competent to do so.

## 7. DOCUMENTATION

Under the heading "7. Documentation," support the written narrative with copies of all of the following:

- (A) the test claim statute that includes the bill number alleged to impose or impact a mandate; and/or
- (B) the executive order, identified by its effective date, alleged to impose or impact a mandate; and
- (C) relevant portions of state constitutional provisions, federal statutes, and executive orders that may impact the alleged mandate; and
- (D) administrative decisions and court decisions cited in the narrative. Published court decisions arising from a state mandate determination by the Board of Control or the Commission are exempt from this requirement.

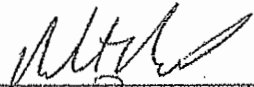
8. CLAIM CERTIFICATION

*Read, sign, and date this section and insert at the end of the test claim submission.\**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

Robert Roach  
Print or Type Name of Authorized Local Agency  
or School District Official

Mandated Cost Analyst  
Print or Type Title

  
Signature of Authorized Local Agency or  
School District Official

Nov. 16, 2010  
Date

*\* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

Test Claim Name: **Race to the Top (SBX5 1 and SBX5 4)**  
Claimant: **Twin Rivers Unified School District**  
Section: **4 - Test Claim Statutes or Executive Orders Cited**

Page 5

**SECTION NUMBER: 4**

**Heading: TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED**

**SBX5 4**

1. Ed. Code section 48353, Section 1 (Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4), effective April 13, 2010.)
2. Ed. Code section 48354, Section 1 (Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4), effective April 13, 2010.)
3. Ed. Code section 48355, Section 1 (Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4), effective April 13, 2010.)
4. Ed. Code section 48356, Section 1 (Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4), effective April 13, 2010.)
5. Ed. Code section 48357, Section 1 (Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4), effective April 13, 2010.)
6. Ed. Code section 48358, Section 1 (Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4), effective April 13, 2010.)
7. Ed. Code section 48359, Section 1 (Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4), effective April 13, 2010.)
8. Ed. Code section 48359.5, Section 1 (Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4), effective April 13, 2010.)
9. Ed. Code section 48360, Section 1 (Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4), effective April 13, 2010.)
10. Ed. Code section 48361, Section 1 (Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4), effective April 13, 2010.)
11. Ed. Code section 53300, Section 2 (Added Stats 2009-2010 5th Ex Sess ch 3 § 2 (SB 4), effective April 13, 2010.)
12. Ed. Code section 53301, Section 2 (Added Stats 2009-2010 5th Ex Sess ch 3 § 2 (SB 4), effective April 13, 2010.)
13. Ed. Code section 53303, Section 2 (Added Stats 2009-2010 5th Ex Sess ch 3 § 2 (SB 4), effective April 13, 2010.)
14. 5-Cal. Code Regs. section 4702, New section filed 8-2-2010 as an emergency; operative 8-2-2010 (Register 2010, No. 32). A Certificate of Compliance must be transmitted to OAL by 1-31-2011 or emergency language will be repealed by operation of law on the following day.

Test Claim Name: **Race to the Top (SBX5 1 and SBX5 4)**  
Claimant: **Twin Rivers Unified School District**  
Section: **5 - Written Narrative (AMENDED)**

Page 6

**SECTION NUMBER: 5**  
**Heading: WRITTEN NARRATIVE**

**The actual and/or estimated costs resulting from the alleged mandate exceeds one thousand dollars (\$1,000).**

**1. Statutes 2010 Chapter 2 (SBX5 1):**

1. Education Code section 53100
2. Education Code section 53101
3. Education Code section 53200
4. Education Code section 53201
5. Education Code section 53201.5
6. Education Code section 53202
7. Education Code section 53203
8. Education Code section 60601

**2. Statutes 2010 Chapter 3 (SBX5 4):**

1. Education Code section 48353
2. Education Code section 48354
3. Education Code section 48355
4. Education Code section 48356
5. Education Code section 48357
6. Education Code section 48358
7. Education Code section 48359
8. Education Code section 48359.5
9. Education Code section 48360
10. Education Code section 48361
11. Education Code section 53300
12. Education Code section 53301
13. Education Code section 53303
14. 5 California Code of Regulations section 4702

**SBX5 1**

**Section A: Detailed description of new activities and costs that arise from the Mandate:**



1. Schools identified by the Superintendent as persistently lowest-achieving will perform the following activities:

Select on of the following four intervention programs:

- (1) The turnaround model.
- (2) The restart model.
- (3) School closure.
- (4) The transformation model.

School staff will prepare summaries analyzing each intervention program and will present such information to board members at a minimum of two public hearings to notify staff, parents, and the community of the designation and to seek input from staff, parents, and the community regarding the option or options most suitable for the applicable school or schools in its jurisdiction. At least one of those public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest-achieving.

It will be necessary to implement new district procedure and policies and provide the public with information regarding the options available for the designated school.

A persistently lowest-achieving school implementing the turnaround or transformation model may participate in a school-to-school partnership program by working with a mentor school that has successfully transitioned from a low-achieving school to a higher-achieving school. Staff will perform activities to identify schools that qualify as mentor schools and staff shall provide guidance to a persistently lowest-achieving school to develop a reform plan for the school using the required elements of the turnaround or transformation model, and provide guidance and advice on how the mentor school was able to transform the culture of the school from low-achieving to higher-achieving and how that transformation could be replicated at the school implementing a turnaround or transformation model. Principal of a mentor school shall meet regularly with the assigned persistently lowest-achieving school for a period of at least three years.

The areas of activities may include, but are not limited to, any of the following:

- (1) Identifying strategies that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the pupils at the school, including financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions.
- (2) Identifying strategies that provide increased instructional time.
- (3) Implementing any of the professional development activities authorized in the state's plan or

application submitted for the federal Race to the Top program.

(4) Developing a new governance structure that may include the establishment of a new turnaround office, located within the local educational agency or the department, that a school implementing the turnaround model will report to.

(5) Developing social-emotional and community-oriented services, including strategies for parental involvement and services that can be located at the schoolsite.

(6) Identifying, reviewing, and recommending quality charter school operators, charter management organizations, or education management organizations that can operate a persistently lowest-achieving school.

(7) Identifying higher-achieving schools in the school district, including charter schools, to relocate pupils attending a school that is scheduled for closure.

(8) Developing, in consultation with teachers and principals, a rigorous, transparent, and equitable evaluation system for teachers and principals that includes the use of pupil growth data and other factors such as multiple observation-based assessments that all schools implementing the turnaround or transformation model may use.

(9) Identifying strategies to identify and reward school leaders, teachers, and other staff who, in implementing the transformation model, have increased pupil achievement and high school graduation rates and have identified and removed those, who, after ample opportunities, have been provided for them to improve their professional practice, have not done so.

(10) Identifying and approving mentor schools pursuant to subdivision (c) of Section 53202.

(11) Consistent with the collective bargaining agreement, a local educational agency may perform the following activities: in doing any of the following:

(A) persistently lowest-achieving schools are not required to accept a teacher without mutual consent of the teacher and principal, regardless of the teacher's seniority.

(B) Implementing schoolsite-based teacher hiring decisions.

(C) Giving persistently lowest-achieving schools first priority in selecting from the qualified district applicant pool, among those teachers who have specifically applied to work at the school.

2. Claimant will prepare policies, procedures, applications and other documents and review all documents submitted by parents relating to the following activities and requirements:

(a) The parent of a pupil enrolled in a low-achieving school may submit an application for the pupil to attend a school in a school district of enrollment pursuant to this article.

(b) shall provide the parents and guardians of all pupils enrolled in a school determined in subdivision (a) of Section 48352 with notice of the option to transfer to another public school served by the school district of residence or another school district.

(2) An application requesting a transfer pursuant to this article shall be submitted by the parent of a pupil to the school district of enrollment prior to January 1 of the school year preceding the school year for which the pupil is requesting to transfer. The school district of enrollment may

waive the deadline specified in this paragraph.

(3) The application deadline specified in paragraph (2) does not apply to an application requesting a transfer if the parent, with whom the pupil resides, is enlisted in the military and was relocated by the military within 90 days prior to submitting the application.

(4) The application may request enrollment of the pupil in a specific school or program within the school district of enrollment.

(5) A pupil may enroll in a school in the school district of enrollment in the school year immediately following the approval of his or her application.

(6) In order to provide priority enrollment opportunities for pupils residing in the school district, a school district of enrollment shall establish a period of time for resident pupil enrollment prior to accepting transfer applications pursuant to this article.

3. The regional consortia authorized under Section 52059, in collaboration with the department, from funds provided for this purpose pursuant to subdivision (c) of Section 53101, shall provide, at a minimum, technical assistance and support to local educational agencies with one or more persistently lowest-achieving schools to assist with the implementation of the duties specified for any of the four interventions for persistently lowest-achieving schools pursuant to Section 53202.

The areas of technical assistance and support pursuant to this section may include, but are not limited to, any of the following:

(1) Identifying strategies that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the pupils at the school, including financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions.

(2) Identifying strategies that provide increased instructional time.

(3) Implementing any of the professional development activities authorized in the state's plan or application submitted for the federal Race to the Top program.

(4) Developing a new governance structure that may include the establishment of a new turnaround office, located within the local educational agency or the department, that a school implementing the turnaround model will report to.

(5) Developing social-emotional and community-oriented services, including strategies for parental involvement and services that can be located at the schoolsite.

(6) Identifying, reviewing, and recommending quality charter school operators, charter management organizations, or education management organizations that can operate a persistently lowest-achieving school.

(7) Identifying higher-achieving schools in the school district, including charter schools, to relocate pupils attending a school that is scheduled for closure.

(8) Developing, in consultation with teachers and principals, a rigorous, transparent, and equitable evaluation system for teachers and principals that includes the use of pupil growth data

and other factors such as multiple observation-based assessments that all schools implementing the turnaround or transformation model may use.

(9) Identifying strategies to identify and reward school leaders, teachers, and other staff who, in implementing the transformation model, have increased pupil achievement and high school graduation rates and have identified and removed those, who, after ample opportunities, have been provided for them to improve their professional practice, have not done so.

(10) Identifying and approving mentor schools pursuant to subdivision (c) of Section 53202. The regional consortia shall first seek eligible mentor schools located within the district of each of the schools implementing the turnaround or transformation model.

(11) Consistent with the collective bargaining agreement, assisting a local educational agency in doing any of the following:

(A) Meeting federal guidelines under Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the federal Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009, which encourages the state to ensure that persistently lowest-achieving schools are not required to accept a teacher without mutual consent of the teacher and principal, regardless of the teacher's seniority.

(B) Implementing schoolsite-based teacher hiring decisions.

(C) Giving persistently lowest-achieving schools first priority in selecting from the qualified district applicant pool, among those teachers who have specifically applied to work at the school.

4. Claimant will provide the following information and documents to the parents:

(1) On or before the first day of the school year, or, if later, on the date the notice of program improvement, corrective action, or restructuring status is required to be provided under federal law the district of residence shall provide the parents and guardians of all pupils enrolled in a school determined in subdivision (a) of Section 48352 with notice of the option to transfer to another public school served by the school district of residence or another school district.

(2) An application requesting a transfer pursuant to this article shall be submitted by the parent of a pupil to the school district of enrollment prior to January 1 of the school year preceding the school year for which the pupil is requesting to transfer. The school district of enrollment may waive the deadline specified in this paragraph.

(3) The application may request enrollment of the pupil in a specific school or program within the school district of enrollment.

(4) A pupil may enroll in a school in the school district of enrollment in the school year immediately following the approval of his or her application.

(5) In order to provide priority enrollment opportunities for pupils residing in the school district, a school district of enrollment shall establish a period of time for resident pupil enrollment prior to accepting transfer applications pursuant to this article.

5. The school district of residence of a pupil or a school district of enrollment to which a pupil has applied will adopt policies and procedures and provide training pertaining to the reviewing of applications of students requesting transfer. The governing board may need to review applications. The polices and procedures may prohibit the transfer of the pupil pursuant to this article or limit the number of pupils who transfer pursuant to this article if the governing board of the district determines that the transfer would negatively impact either of the following:

(1) A court-ordered or voluntary desegregation plan of the district.

(2) The racial and ethnic balance of the district, provided that any policy adopted pursuant to this paragraph is consistent with federal and state law.

(b) A school district of residence shall not adopt any other policies that in any way prevent or discourage pupils from applying for a transfer to a school district of enrollment.

(c) Communications to parents or guardians by districts regarding the open enrollment options provided by this article shall be factually accurate and not target individual parents or guardians or residential neighborhoods on the basis of a child's actual or perceived academic or athletic performance or any other personal characteristic.

6. Claimant will implement policies and procedures to adhere to the following requirements:

(a) A school district of enrollment will adopt specific, written standards for acceptance and rejection of applications pursuant to this article. The standards may include consideration of the capacity of a program, class, grade level, school building, or adverse financial impact. Subject to subdivision (b), and except as necessary in accordance with Section 48355, the standards shall not include consideration of a pupil's previous academic achievement, physical condition, proficiency in the English language, family income, or any of the individual characteristics set forth in Section 200.

(b) In considering an application pursuant to this article, a nonresident school district may apply its usual requirements for admission to a magnet school or a program designed to serve gifted and talented pupils.

(c) Subject to the rules and standards that apply to pupils who reside in the school district of enrollment, a resident pupil who is enrolled in one of the district's schools pursuant to this article shall not be required to submit an application in order to remain enrolled.

(d) A school district of enrollment shall ensure that pupils enrolled pursuant to standards adopted pursuant to this section are enrolled in a school with a higher Academic Performance Index than the school in which the pupil was previously enrolled and are selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, or any of the other characteristics set forth in subdivision (a), except that pupils applying for a transfer pursuant to this article shall be assigned priority for approval as follows:

(1) First priority for the siblings of children who already attend the desired school.

(2) Second priority for pupils transferring from a program improvement school ranked in decile 1

on the Academic Performance Index determined pursuant to subdivision (a) of Section 48352.

(3) If the number of pupils who request a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order identified in paragraphs (1) and (2) to select pupils at random until all of the available spaces are filled.

(e) The initial application of a pupil for transfer to a school within a school district of enrollment shall not be approved if the transfer would require the displacement from the desired school of any other pupil who resides within the attendance area of that school or is currently enrolled in that school.

(f) A pupil approved for a transfer to a school district of enrollment pursuant to this article shall be deemed to have fulfilled the requirements of Section 48204.

7. Claimant staff within 60 days of receiving an application pursuant to Section 48354, a school district of enrollment shall notify the applicant parent and the school district of residence in writing whether the application has been accepted or rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection.

8. A school district of enrollment that enrolls a pupil pursuant to this article shall accept credits toward graduation that were awarded to the pupil by another school district and shall graduate the pupil if the pupil meets the graduation requirements of the school district of enrollment.

9. Claimant will (a) keep an accounting of all requests made for alternative attendance pursuant to this article and records of all disposition of those requests that may include, but are not limited to, all of the following:

(1) The number of requests granted, denied, or withdrawn. In the case of denied requests, the records may indicate the reasons for the denials.

(2) The number of pupils who transfer out of the district.

(3) The number of pupils who transfer into the district.

(4) The race, ethnicity, gender, self-reported socioeconomic status, and the school district of residence of each of the pupils described in paragraphs (2) and (3).

(5) The number of pupils described in paragraphs (2) and (3) who are classified as English learners or identified as individuals with exceptional needs, as defined in Section 56026.

(b) The information maintained pursuant to subdivision (a) may be reported to the governing board of the school district at a regularly scheduled meeting of the governing board.

10. Claimant will adopt policies and procedures and perform all activities to comply with the following requirements:

For any school not identified as a persistently lowest-achieving school under Section 53201 which, after one full school year, is subject to corrective action pursuant to paragraph (7) of Section 1116(b) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et

seq.) and continues to fail to make adequate yearly progress, and has an Academic Performance Index score of less than 800, and where at least one-half of the parents or legal guardians of pupils attending the school, or a combination of at least one-half of the parents or legal guardians of pupils attending the school and the elementary or middle schools that normally matriculate into a middle or high school, as applicable, sign a petition requesting the local educational agency to implement one or more of the four interventions identified pursuant to paragraphs (1) to (4), inclusive of subdivision (a) of Section 53202 or the federally mandated alternative governance arrangement pursuant to Section 1116(b)(8)(B)(v) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.), the local educational agency shall implement the option requested by the parents unless, in a regularly scheduled public hearing, the local educational agency makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options described in this section it will implement in the subsequent school year consistent with requirements specified in federal regulations and guidelines for schools subject to restructuring under Section 1116(b)(8) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and regulations and guidelines for the four interventions.

11. Claimant will review and analysis all petitions pertaining to the option selected by parents, if necessary conduct board meeting(s) and notify the Superintendent and the state board upon receipt of a petition under Section 53300 and upon its final disposition of that petition. If the local educational agency indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the local educational agency shall notify the Superintendent and the state board that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in the federally mandated state plan under Section 1111(b)(2) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.).

12. The district of residence shall notify the parent(s) or guardian(s) of each pupil enrolled in a school included on the most recent Open Enrollment list of the option to transfer. This notice shall be provided on the first day of instruction; if the district has not been notified of whether its school(s) is on the list, the notification shall be provided no later than September 15. A pupil who transfers to a school pursuant to the Open Enrollment Act and is currently enrolled in that school shall not be required to reapply for enrollment in that school, regardless of whether the pupil's school of residence remains on the list of 1,000 Open Enrollment schools.

**Section B. A detailed description of existing activities and costs that are modified by the mandate.**

Claimant is unaware of existing activities and costs that are modified by the mandate.

**Section C. Actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.**

Actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate is estimated to be \$350,000.

**Section D. The actual or estimated costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.**

The actual or increased costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed is estimated to be \$100,000.

**Section E. The state wide cost estimate of increased costs at all local agencies for school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.**

The state wide cost estimate of increased costs at all local agencies for school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed is estimated to be \$5,000,000.

**Section F. Identification of all the following funding sources available for this program:**

**(i) Dedicated state funds**

Claimant contends that School Improvement Grant (SIG) may be an available funding source for this program. Claimant is unaware at this time of any other dedicated state funds available for this program.

**(ii) Dedicated federal funds**

Claimant is unaware at this time of any dedicated federal funds available for this program.

**(iii) Other non-local agency funds**

Claimant is unaware at this time of other non-local agency funds available for this program.

**(iv) The local agency's general purpose funds**

Claimant is unaware at this time of any general purpose funds available for this program.

**(v) Fee authority to offset costs**

Claimant is unaware at this time of any fee authority to offset costs available for this program.



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**Section G. Identification of prior mandate determinations made by the board of control or the commission on state mandates that may be related to the alleged mandate.**

Claimant is unaware at this time of any prior mandate determination made by the board of control or the commission on state mandates that may be related to the alleged mandate.

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**SECTION NUMBER: 6**  
**Heading: DECLARATION**

I, Robert Roach, Mandate Analyst for the Twin Rivers Unified School District, declare as follows:

**Section A. The actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate.**

The actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate will be approximately \$450,000 for the 14 schools that were identified as "Persistently Lowest Achieving Schools."

**Section B. Identify all local, state, or federal funds, and fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs;**

Claimant is unaware at this time of any local, state, or federal funds and fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs.

**Section C. Describe new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program (specific references shall be made to chapters, articles, sections or page numbers alleged to impose a reimbursable state mandated program)**

1. Claimant's schools identified by the Superintendent as persistently lowest-achieving will perform the following activities:

Select on of the following four intervention programs:

- (1) The turnaround model.
- (2) The restart model.
- (3) School closure.
- (4) The transformation model.

School staff will prepare summaries analyzing each intervention program and will present such information to board members at a minimum of two public hearings to notify staff, parents, and the community of the designation and to seek input from staff, parents, and the community regarding the option or options most suitable for the applicable school or schools in its jurisdiction. At least one of those public hearings shall be held at a regularly scheduled meeting,

if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest-achieving.

It will be necessary to implement new district procedure and policies and provide the public with information regarding the options available for the designated school.

A persistently lowest-achieving school implementing the turnaround or transformation model may participate in a school-to-school partnership program by working with a mentor school that has successfully transitioned from a low-achieving school to a higher-achieving school. Staff will perform activities to identify schools that qualify as mentor schools and staff shall provide guidance to a persistently lowest-achieving school to develop a reform plan for the school using the required elements of the turnaround or transformation model, and provide guidance and advice on how the mentor school was able to transform the culture of the school from low-achieving to higher-achieving and how that transformation could be replicated at the school implementing a turnaround or transformation model. Principal of a mentor school shall meet regularly with the assigned persistently lowest-achieving school for a period of at least three years. (Ed. Code § 53202.)

The areas of activities may include, but are not limited to, any of the following:

- (1) Identifying strategies that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the pupils at the school, including financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions.
- (2) Identifying strategies that provide increased instructional time.
- (3) Implementing any of the professional development activities authorized in the state's plan or application submitted for the federal Race to the Top program.
- (4) Developing a new governance structure that may include the establishment of a new turnaround office, located within the local educational agency or the department, that a school implementing the turnaround model will report to.
- (5) Developing social-emotional and community-oriented services, including strategies for parental involvement and services that can be located at the schoolsite.
- (6) Identifying, reviewing, and recommending quality charter school operators, charter management organizations, or education management organizations that can operate a persistently lowest-achieving school.
- (7) Identifying higher-achieving schools in the school district, including charter schools, to relocate pupils attending a school that is scheduled for closure.
- (8) Developing, in consultation with teachers and principals, a rigorous, transparent, and equitable evaluation system for teachers and principals that includes the use of pupil growth data and other factors such as multiple observation-based assessments that all schools implementing the turnaround or transformation model may use.

(9) Identifying strategies to identify and reward school leaders, teachers, and other staff who, in implementing the transformation model, have increased pupil achievement and high school graduation rates and have identified and removed those, who, after ample opportunities, have been provided for them to improve their professional practice, have not done so.

(10) Identifying and approving mentor schools pursuant to subdivision (c) of Section 53202.

(11) Consistent with the collective bargaining agreement, a local educational agency may perform the following activities: in doing any of the following:

(A) persistently lowest-achieving schools are not required to accept a teacher without mutual consent of the teacher and principal, regardless of the teacher's seniority.

(B) Implementing schoolsite-based teacher hiring decisions.

(C) Giving persistently lowest-achieving schools first priority in selecting from the qualified district applicant pool, among those teachers who have specifically applied to work at the school.

(Ed. Code § 53202)

2. Claimant will prepare policies, procedures, applications and other documents and review all documents submitted by parents relating to the following activities and requirements:

(a) The parent of a pupil enrolled in a low-achieving school may submit an application for the pupil to attend a school in a school district of enrollment pursuant to this article.

(b) shall provide the parents and guardians of all pupils enrolled in a school determined in subdivision (a) of Section 48352 with notice of the option to transfer to another public school served by the school district of residence or another school district.

(2) An application requesting a transfer pursuant to this article shall be submitted by the parent of a pupil to the school district of enrollment prior to January 1 of the school year preceding the school year for which the pupil is requesting to transfer. The school district of enrollment may waive the deadline specified in this paragraph.

(3) The application deadline specified in paragraph (2) does not apply to an application requesting a transfer if the parent, with whom the pupil resides, is enlisted in the military and was relocated by the military within 90 days prior to submitting the application.

(4) The application may request enrollment of the pupil in a specific school or program within the school district of enrollment.

(5) A pupil may enroll in a school in the school district of enrollment in the school year immediately following the approval of his or her application.

(6) In order to provide priority enrollment opportunities for pupils residing in the school district, a school district of enrollment shall establish a period of time for resident pupil enrollment prior to accepting transfer applications pursuant to this article.(Ed. Code § 48354)

3. The regional consortia authorized under Section 52059, in collaboration with the department, from funds provided for this purpose pursuant to subdivision (c) of Section 53101, shall provide, at a minimum, technical assistance and support to local educational agencies with one or more persistently lowest-achieving schools to assist with the implementation of the duties

specified for any of the four interventions for persistently lowest-achieving schools pursuant to Section 53202.

The areas of technical assistance and support pursuant to this section may include, but are not limited to, any of the following:

- (1) Identifying strategies that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the pupils at the school, including financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions.
- (2) Identifying strategies that provide increased instructional time.
- (3) Implementing any of the professional development activities authorized in the state's plan or application submitted for the federal Race to the Top program.
- (4) Developing a new governance structure that may include the establishment of a new turnaround office, located within the local educational agency or the department, that a school implementing the turnaround model will report to.
- (5) Developing social-emotional and community-oriented services, including strategies for parental involvement and services that can be located at the schoolsite.
- (6) Identifying, reviewing, and recommending quality charter school operators, charter management organizations, or education management organizations that can operate a persistently lowest-achieving school.
- (7) Identifying higher-achieving schools in the school district, including charter schools, to relocate pupils attending a school that is scheduled for closure.
- (8) Developing, in consultation with teachers and principals, a rigorous, transparent, and equitable evaluation system for teachers and principals that includes the use of pupil growth data and other factors such as multiple observation-based assessments that all schools implementing the turnaround or transformation model may use.
- (9) Identifying strategies to identify and reward school leaders, teachers, and other staff who, in implementing the transformation model, have increased pupil achievement and high school graduation rates and have identified and removed those, who, after ample opportunities, have been provided for them to improve their professional practice, have not done so.
- (10) Identifying and approving mentor schools pursuant to subdivision (c) of Section 53202. The regional consortia shall first seek eligible mentor schools located within the district of each of the schools implementing the turnaround or transformation model.
- (11) Consistent with the collective bargaining agreement, assisting a local educational agency in doing any of the following:
  - (A) Meeting federal guidelines under Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the federal Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009, which encourages the state to ensure that persistently lowest-achieving schools are not required to accept a teacher without mutual consent of the teacher and principal, regardless of the teacher's seniority.
  - (B) Implementing schoolsite-based teacher hiring decisions.

(C) Giving persistently lowest-achieving schools first priority in selecting from the qualified district applicant pool, among those teachers who have specifically applied to work at the school. (Ed. Code § 53203)

4. Claimant will provide the following information and documents to the parents:

- (1) On or before the first day of the school year, or, if later, on the date the notice of program improvement, corrective action, or restructuring status is required to be provided under federal law the district of residence shall provide the parents and guardians of all pupils enrolled in a school determined in subdivision (a) of Section 48352 with notice of the option to transfer to another public school served by the school district of residence or another school district.
- (2) An application requesting a transfer pursuant to this article shall be submitted by the parent of a pupil to the school district of enrollment prior to January 1 of the school year preceding the school year for which the pupil is requesting to transfer. The school district of enrollment may waive the deadline specified in this paragraph.
- (3) The application may request enrollment of the pupil in a specific school or program within the school district of enrollment.
- (4) A pupil may enroll in a school in the school district of enrollment in the school year immediately following the approval of his or her application.
- (5) In order to provide priority enrollment opportunities for pupils residing in the school district, a school district of enrollment shall establish a period of time for resident pupil enrollment prior to accepting transfer applications pursuant to this article. (Ed. Code § 48354)

5. The school district of residence of a pupil or a school district of enrollment to which a pupil has applied will adopt policies and procedures and provide training pertaining to the reviewing of applications of students requesting transfer. The governing board may need to review applications. The policies and procedures may prohibit the transfer of the pupil pursuant to this article or limit the number of pupils who transfer pursuant to this article if the governing board of the district determines that the transfer would negatively impact either of the following:

- (1) A court-ordered or voluntary desegregation plan of the district.
  - (2) The racial and ethnic balance of the district, provided that any policy adopted pursuant to this paragraph is consistent with federal and state law.
- (b) A school district of residence shall not adopt any other policies that in any way prevent or discourage pupils from applying for a transfer to a school district of enrollment.
- (c) Communications to parents or guardians by districts regarding the open enrollment options provided by this article shall be factually accurate and not target individual parents or guardians or residential neighborhoods on the basis of a child's actual or perceived academic or athletic performance or any other personal characteristic. (Ed. Code § 48355)

6. Claimant will implement policies and procedures to adhere to the following requirements:

(a) A school district of enrollment will adopt specific, written standards for acceptance and rejection of applications pursuant to this article. The standards may include consideration of the capacity of a program, class, grade level, school building, or adverse financial impact. Subject to subdivision (b), and except as necessary in accordance with Section 48355, the standards shall not include consideration of a pupil's previous academic achievement, physical condition, proficiency in the English language, family income, or any of the individual characteristics set forth in Section 200.

(b) In considering an application pursuant to this article, a nonresident school district may apply its usual requirements for admission to a magnet school or a program designed to serve gifted and talented pupils.

(c) Subject to the rules and standards that apply to pupils who reside in the school district of enrollment, a resident pupil who is enrolled in one of the district's schools pursuant to this article shall not be required to submit an application in order to remain enrolled.

(d) A school district of enrollment shall ensure that pupils enrolled pursuant to standards adopted pursuant to this section are enrolled in a school with a higher Academic Performance Index than the school in which the pupil was previously enrolled and are selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, or any of the other characteristics set forth in subdivision (a), except that pupils applying for a transfer pursuant to this article shall be assigned priority for approval as follows:

(1) First priority for the siblings of children who already attend the desired school.

(2) Second priority for pupils transferring from a program improvement school ranked in decile 1 on the Academic Performance Index determined pursuant to subdivision (a) of Section 48352.

(3) If the number of pupils who request a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order identified in paragraphs (1) and (2) to select pupils at random until all of the available spaces are filled.

(e) The initial application of a pupil for transfer to a school within a school district of enrollment shall not be approved if the transfer would require the displacement from the desired school of any other pupil who resides within the attendance area of that school or is currently enrolled in that school.

(f) A pupil approved for a transfer to a school district of enrollment pursuant to this article shall be deemed to have fulfilled the requirements of Section 48204. (Ed. Code § 48356)

7. Claimant staff within 60 days of receiving an application pursuant to Section 48354, a school district of enrollment shall notify the applicant parent and the school district of residence in writing whether the application has been accepted or rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection. (Ed. Code § 48357)



8. A school district of enrollment that enrolls a pupil pursuant to this article shall accept credits toward graduation that were awarded to the pupil by another school district and shall graduate the pupil if the pupil meets the graduation requirements of the school district of enrollment.(Ed. Code § 48358)

9. Claimant will (a) keep an accounting of all requests made for alternative attendance pursuant to this article and records of all disposition of those requests that may include, but are not limited to, all of the following:

(1) The number of requests granted, denied, or withdrawn. In the case of denied requests, the records may indicate the reasons for the denials.

(2) The number of pupils who transfer out of the district.

(3) The number of pupils who transfer into the district.

(4) The race, ethnicity, gender, self-reported socioeconomic status, and the school district of residence of each of the pupils described in paragraphs (2) and (3).

(5) The number of pupils described in paragraphs (2) and (3) who are classified as English learners or identified as individuals with exceptional needs, as defined in Section 56026.

(b) The information maintained pursuant to subdivision (a) may be reported to the governing board of the school district at a regularly scheduled meeting of the governing board. (Ed. Code § 48359)

10. Claimant will adopt policies and procedures and perform all activities to comply with the following requirements:

For any school not identified as a persistently lowest-achieving school under Section 53201 which, after one full school year, is subject to corrective action pursuant to paragraph (7) of Section 1116 (b) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and continues to fail to make adequate yearly progress, and has an Academic Performance Index score of less than 800, and where at least one-half of the parents or legal guardians of pupils attending the school, or a combination of at least one-half of the parents or legal guardians of pupils attending the school and the elementary or middle schools that normally matriculate into a middle or high school, as applicable, sign a petition requesting the local educational agency to implement one or more of the four interventions identified pursuant to paragraphs (1) to (4), inclusive of subdivision (a) of Section 53202 or the federally mandated alternative governance arrangement pursuant to Section 1116(b)(8)(B)(v) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.), the local educational agency shall implement the option requested by the parents unless, in a regularly scheduled public hearing, the local educational agency makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options described in this section it will implement in the subsequent school year consistent with requirements specified in federal regulations and guidelines for schools subject to restructuring

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under Section 1116(b)(8) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and regulations and guidelines for the four interventions.(Ed. Code § 53300)

11. Claimant will review and analysis all petitions pertaining to the option selected by parents, if necessary conduct board meeting(s) and notify the Superintendent and the state board upon receipt of a petition under Section 53300 and upon its final disposition of that petition. If the local educational agency indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the local educational agency shall notify the Superintendent and the state board that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in the federally mandated state plan under Section 1111(b)(2) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.),(Ed. Code § 53301)

12. The district of residence shall notify the parent(s) or guardian(s) of each pupil enrolled in a school included on the most recent Open Enrollment list of the option to transfer. This notice shall be provided on the first day of instruction; if the district has not been notified of whether its school(s) is on the list, the notification shall be provided no later than September 15. A pupil who transfers to a school pursuant to the Open Enrollment Act and is currently enrolled in that school shall not be required to reapply for enrollment in that school, regardless of whether the pupil's school of residence remains on the list of 1,000 Open Enrollment schools. (5 Cal. Code Regs. Section 4702)

#### Section D.

I declare under penalty of perjury under the laws of the State of California, that this information in this declaration is true and complete to the best of my own knowledge, information or belief.

Dated: December 15, 2010



Robert Roach

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Section: **7 - Documentation**

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**SECTION NUMBER: 7**  
**Heading: DOCUMENTATION**

**Section A.**

The pages attached as 1 through 84 include the bills which impact the mandate.

CALIFORNIA 2010 LEGISLATIVE SERVICE  
2010 Portion of 2009-2010 5th Extraordinary Session

Additions are indicated by ~~Text~~; deletions by

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CHAPTER 2  
S.B. No. 1  
SCHOOLS AND SCHOOL DISTRICTS--PUBLIC SCHOOLS--PROGRAMS

AN ACT to amend Sections 52052.5, 60601, 60603, 60604, 60605.6, 60606, 60640, 60643, 60643.1, and 60900 of, to add Sections 10601.6, 10802.5, 10807, 49079.7, 44227.2, 60604.5, 60605.7, 60605.8, and 60605.9 to, and to add Chapter 18 (commencing with Section 53100) to Part 28 of Division 4 of Title 2 of, the Education Code, and to amend Section 1095 of the Unemployment Insurance Code, relating to public schools.

[Filed with Secretary of State January 7, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1, Steinberg. Public schools: Race to the Top.

(1) The Education Data and Information Act of 2008 requires the State Chief Information Officer to convene a working group representing specified governmental entities that collect, report, or use individual pupil education data to create a strategic plan to link education data systems and to accomplish objectives relating to the accessibility of education data.

This bill, in addition, would authorize the State Department of Education, the University of California, the California State University, the Chancellor of the California Community Colleges, the Commission on Teacher Credentialing, the Employment Development Department, and the California School Information Services to enter into interagency agreements in order to facilitate specified objectives regarding the implementation of a longitudinal education data system and the transfer of education data.

(2) Existing law establishes the Commission on Teacher Credentialing to, among other things, establish professional standards and procedures for the issuance and renewal of teaching and services credentials.

This bill would establish the Science, Technology, Engineering, Math, and Career Technical Education Educator Credentialing Program for purposes of providing alternative routes to credentialing in accordance with the guidelines for the federal Race to the Top Fund, and would require the commission, together with the Committee on Accreditation, to develop a process to authorize additional high-quality alternative route educator preparation programs provided by school districts, county offices of education, community-based organizations, and nongovernmental organizations. The bill would authorize the commission to assess a fee on community-based and nongovernmental organizations that are seeking approval to participate in the program.

(3) Federal law, the federal Family Educational Rights and Privacy Act (FERPA), requires schools and educa-

tional agencies receiving federal financial assistance to comply with specified provisions regarding the release of pupil data. State law prescribes additional rules relating to the authorized release of pupil data.

This bill would authorize the department, to the extent permissible under FERPA and specified state law, and commencing July 1, 2010, to conduct pupil data management on behalf of local educational agencies. The bill would require the department to establish, no earlier than July 1, 2010, an education data team to act as an institutional review board to review and respond to all requests for pupil data, as specified. The bill would make the department responsible for data management decisions for data under its jurisdiction and make the department and a local educational agency jointly liable for any data management decisions in which the department and the local educational agency participate jointly, as specified. The bill would require the department to develop appropriate policies and procedures for the education data team by July 1, 2010, that includes fees or charges that shall be imposed upon research applicants, as specified. The bill would require the department to perform the duties specified in these provisions with its existing resources. The bill would make these provisions inoperative on July 1, 2013, and repeal them on January 1, 2014.

(4) Existing law requires the Superintendent of Public Instruction to establish an advisory committee to advise on all appropriate matters relative to the creation of the Academic Performance Index and the implementation of the Immediate Intervention/Underperforming Schools Program and the High Achieving/Improving Schools Program.

This bill would require the Superintendent and the state board, in consultation with the advisory committee, by July 1, 2013, to make recommendations to the Legislature and the Governor on, among other things, the establishment of a methodology for generating a measurement of group and individual academic performance growth by using individual pupil results from a longitudinally valid achievement assessment system.

(5) The federal American Recovery and Reinvestment Act of 2009 (ARRA), provides \$4.3 billion for the State Incentive Grant Fund (Race to the Top Fund), which is a competitive grant program designed to encourage and reward states that are implementing specified educational objectives. The ARRA requires a Governor to apply on behalf of a state seeking a Race to the Top grant, and requires the application to include specified information. The United States Secretary of Education has issued regulations and guidelines regarding state eligibility under the Race to the Top program.

This bill would state the Legislature's intent to implement education reforms to, among other things, ensure that California is positioned to be successful in the Race to the Top competition.

This bill would authorize the Superintendent and the President of the State Board of Education to enter into a memorandum of understanding with a local educational agency for the purposes of implementing the Race to the Top program. The bill would require the Governor, the Superintendent, and the state board, in collaboration with participating local educational agencies, as necessary, to develop a high-quality plan or plans to submit as part of an application for federal Race to the Top funds that includes specified elements. The bill would require the Department of Finance, concurrent with the submission of the plan to the Attorney General, to provide the appropriate policy and fiscal committees of both houses of the Legislature with a copy of the plan or plans. The bill would require the Superintendent, on or before January 1, 2011, to contract with an independent evaluator relating to the implementation of the state plan. The bill would require the Superintendent, on or before June 1, 2014, to provide the final evaluation to the Legislature, the Governor, and the state board, and require the department to use federal Race to the Top program funds for this evaluation.

This bill would require the Superintendent and the state board to establish a list of low-achieving schools and persistently lowest-achieving schools, as defined, according to specific criteria. The bill would require the Superintendent to notify the governing board of a school district, county superintendent of schools, or the governing body of a charter school or its equivalent, that one or more of the schools in its jurisdiction have been identified as a persistently lowest-achieving school. The bill, except as specified, would require the governing board of a school district, county office of education, or the governing body of a charter school or its equivalent to implement, for any school identified by the Superintendent as persistently lowest-achieving, one of four interventions for turning around lowest-achieving schools described in federal regulations and guidelines for the Race to the Top program, thereby imposing a state-mandated local program. The bill would authorize a persistently lowest-achieving school implementing specified intervention models to participate in a school-to-school partnership program by working with a mentor school that has successfully transitioned from a low-achieving school to a higher-achieving school.

(6) Existing law establishes the California Education Information System, which consists of the California Longitudinal Pupil Achievement Data System, known as CALPADS, and the California Longitudinal Teacher Integrated Data System, known as CALTIDES.

This bill would require CALPADS to be used to report data pursuant to specified federal programs, and would authorize data in the California Education Information System to be used by local educational agencies for purposes of evaluating teachers and administrators and making employment decisions, if those decisions comply with specified provisions of law.

(7) Existing law, the Leroy Greene California Assessment of Academic Achievement Act (hereafter the Greene Act), requires the Superintendent to design and implement a statewide pupil assessment program, and requires school districts, charter schools, and county offices of education to administer to each of its pupils in grades 2 to 11, inclusive, certain achievement tests, including a standards-based achievement test pursuant to the Standardized Testing and Reporting (STAR) Program.

This bill would express the intent of the Legislature that the reauthorization of the statewide pupil assessment program include specified elements, including a plan for transitioning to a system of high-quality assessments, as defined in the federal Race to the Top guidelines and regulations. The bill would establish the Academic Content Standards Commission, consisting of 12 appointed members, as specified. The commission would be required to develop academic content standards in language arts and mathematics, and would be required, on or before July 15, 2010, to present its recommended academic content standards to the state board. The bill would require the state board, on or before August 2, 2010, to adopt or reject the academic content standards, and would also require the Superintendent and the state board to present specified information to the Governor and appropriate policy and fiscal committees of the Legislature. This bill would exempt instructional materials adopted pursuant to those provisions from specified requirements relating to the approval and adoption of basic instructional materials by the state board.

This bill would require the Superintendent, the state board, and any other entity or individual designated by the Governor to participate in the Common Core State Standards Initiative consortium sponsored by the National Governors Association and the Council of Chief State School Officers or any associated or related interstate collaboration to jointly develop common high-quality standards or assessments aligned with the common set of standards.

Existing law makes certain provisions of the Greene Act inoperative on July 1, 2011, and repeals all of the act's provisions on January 1, 2012.

This bill would make the act inoperative on July 1, 2013, and would repeal the act as of January 1, 2014. By extending the time period during which school districts are required to perform various duties relating to the administration of achievement tests, the bill would impose a state-mandated local program.

(8) Existing law requires the State Department of Education under CALPADS to contract for the development of proposals that will provide for the retention and analysis of longitudinal pupil achievement data. Existing law requires local educational agencies to retain individual pupil records for each test taker, including other data elements deemed necessary by the Superintendent, with approval of the state board, to comply with federal reporting requirements delineated in the federal Elementary and Secondary Education Act.

This bill would require local educational agencies to also retain other data elements deemed necessary by the Superintendent, with the approval of the state board, to comply with programs implemented pursuant to specified provisions of federal law, subject to the submission of an expenditure plan to the Department of Finance, as specified.

(9) Existing law requires the director of the Employment Development Department to permit the use of any information in his or her possession to the extent necessary for specified purposes.

The bill would authorize the State Department of Education, the University of California, the California State University, and the Chancellor of the California Community Colleges to obtain quarterly wage data on students in order to meet the requirements of the federal American Recovery and Reinvestment Act of 2009, to the extent permitted by federal law.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(11) This bill would provide that it shall become operative only if SB 4 of the 5th Extraordinary Session is also enacted and becomes operative.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to implement education reforms to dramatically improve the achievement of California's students. These reforms will ensure that California is positioned to be successful in the federal Race to the Top competition through the following reforms:

(a) Authorize the Governor, Superintendent of Public Instruction, and the State Board of Education to jointly develop a plan with local educational agencies for submission in the Race to the Top grant competition and provide participating local education agencies with the flexibility they need to implement activities in the state plan.

(b) Recruit, prepare, develop, retain, train for continual improvement, and reward effective teachers and principals, especially in the state's lowest performing schools, and provide alternative routes to certification for

those who want to teach science, technology, engineering, and math subjects in order to attract professionals with hands-on experience in the classroom.

(c) Ensure that the rigor of the state's reading, writing, and mathematics academic content standards, curricula, and assessments is maintained so that all high school graduates are prepared for college and careers by establishing a process to adopt new standards based on the Common Core State Standards Initiative.

(d) Create robust data systems linking prekindergarten, K-12, higher education and workforce data to measure student success, improve instruction and student learning, and inform teachers, principals, students, policy-makers, and the public of school performance.

(e) Turn around the state's persistently lowest-achieving schools by identifying them, presenting them with rigorous and comprehensive alternative models for reform, support the school-level cultural change that is necessary for successful school reform, and eliminate barriers to school turnarounds.

SEC. 2. Section 10601.6 is added to the Education Code, to read:

<< CA EDUC § 10601.6 >>

10601.6. Notwithstanding any other provision of law, data in the California Education Information System, solely or in conjunction with data from any other data system, may be used by local educational agencies for purposes of evaluating teachers and administrators and making employment decisions, only if these decisions comply with Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

SEC. 3. Section 10802.5 is added to the Education Code, to read:

<< CA ST § 10802.5 >>

10802.5. It is the intent of the Legislature that, on or before January 1, 2011, and to the extent an appropriation is provided for this purpose, the department, at a minimum, ensures that the data elements pertaining to success in the 21st Century workforce described in Section 6401(a)(2)(B)(ii) and (e)(1)(A)(ii) of the federal America COMPETES Act (20 U.S.C. Sec. 9871) be collected for career technical education programs operated by a local educational agency.

SEC. 4. Section 10807 is added to the Education Code, to read:

<< CA ST § 10807 >>

10807. The department, the University of California, the California State University, the Chancellor of the California Community Colleges, the Commission on Teacher Credentialing, the Employment Development Department, and the California School Information Services established in Section 49081 may enter into interagency agreements in order to facilitate all of the following:

- (a) The implementation of a comprehensive longitudinal education data system for California.
- (b) The transfer of data from one educational segment to another.
- (c) The transfer of workforce data to the educational segments.



SEC. 5. Section 44227.2 is added to the Education Code, to read:

<< CA ST § 44227.2 >>

44227.2. (a) The Legislature hereby establishes the Science, Technology, Engineering, Math, and Career Technical Education Educator Credentialing Program for purposes of providing alternative routes to credentialing, in accordance with the guidelines for the federal Race to the Top Fund, authorized under the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), that do not compromise state standards.

(b) No later than June 1, 2010, the commission, in consultation with the Committee on Accreditation established pursuant to Section 44373, shall develop a process to authorize additional high-quality alternative route educator preparation programs provided by school districts, county offices of education, community-based organizations, and nongovernmental organizations. Organizations participating in this project may offer educator preparation programs for any science, mathematics, and career technical education credential type issued by the commission if the organization meets the requirements for being authorized pursuant to criteria established by the commission.

(c) The commission shall authorize community-based or nongovernmental organizations accredited by an accrediting organization that is recognized by the Council for Higher Education Accreditation and the United States Department of Education. The commission may also establish alternative criteria, if necessary, for project participants that are not eligible for accreditation by one of the accredited organizations.

(d) Participating organizations shall electronically submit credential applications to the commission.

(e) The commission may assess a fee on a community-based or nongovernmental organization that is seeking approval to participate in the program. For purposes of this section, an independent college or university in California is not a community-based or nongovernmental organization.

SEC. 6. Section 49079.7 is added to the Education Code, to read:

<< CA ST § 49079.7 >>

49079.7. (a) Notwithstanding paragraph (3) of subdivision (c) of Section 49079.6, the department shall impose reasonable fees or charges upon researchers applying for access to individually identifiable data, in order to cover costs of responding to time-intensive request.

(b) Fees or charges imposed upon an applicant pursuant to this section shall equal the actual costs incurred by the department in responding to the applicant's request.

(c) Fees or charges shall not be imposed pursuant to this section upon any state agency, except for fees or charges related to the release of data for research purposes to the University of California, the California State University, or the Chancellor of the California Community Colleges.

SEC. 7. Section 52052.5 of the Education Code is amended to read:

<< CA ST § 52052.5 >>

52052.5. (a) The Superintendent \*\*\* shall establish a broadly representative and diverse advisory committee to

advise the Superintendent of Public Instruction and the State Board \*\*\* on all appropriate matters relative to the creation of the Academic Performance Index and the implementation of the Immediate Intervention/Underperforming Schools Program and the High Achieving/Improving Schools Program. Members of the advisory committee shall serve without compensation for terms not to exceed two years. The \*\*\* Department \*\*\* shall provide staff to the advisory panel.

(b) By July 1, 2005, the advisory committee established pursuant to this section shall make recommendations to the Superintendent \*\*\* on the appropriateness and feasibility of a methodology for generating a measurement of academic performance by utilizing unique pupil identifiers for pupils in kindergarten and any of grades 1 to 12, inclusive, and annual academic achievement growth to provide a more accurate measure of a school's growth over time. If appropriate and feasible, the Superintendent \*\*\*, with the approval of the State Board \*\*\*, shall thereafter implement this measurement of academic performance.

~~(c) By January 1, 2011, the Superintendent and the state board, in consultation with the advisory committee established pursuant to subdivision (a), shall make recommendations to the Legislature and the Governor on each of the following:~~

~~(1) Approaches to increasing the emphasis of science and mathematics in the calculation of the Academic Performance Index or any successor measure;~~

~~(2) Methods to incorporate into the Academic Performance Index, or into other aspects of the state's accountability system, a measure of the degree to which pupils graduate from high school with the skills and knowledge necessary to attain entry-level employment in business or industry, as set forth in subdivision (b) of Section 51228;~~

~~(3) Methods to incorporate into the Academic Performance Index, or into other aspects of the state's accountability system, a measure of the degree to which pupils graduate from high school with the skills and knowledge necessary to succeed in postsecondary education;~~

~~(d) By July 1, 2013, the Superintendent and the state board, in consultation with the advisory committee established pursuant to subdivision (a), shall make recommendations to the Legislature and the Governor on the establishment of a methodology for generating a measurement of group and individual academic performance growth by utilizing individual pupil results from a longitudinally valid achievement assessment system. These recommendations should also address any interactions between the Academic Performance Index, or any successor measure, and individual test scores from the state's tests, as well as implications for the reauthorization of the state's assessment system. This paragraph shall not be construed to supersede the provisions of Chapter 273 of the Statutes of 2009.~~

<< CA ST pr. 53100 (c. hd.) >>

SEC. 8. Chapter 18 (commencing with Section 53100) is added to Part 28 of Division 4 of Title 2 of the Education Code, to read:

CHAPTER 18. Race to the Top

Article 1. General Provisions

<< CA ST § 53100 >>

53100. For the purposes of implementing the federal Race to the Top program established by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5):

(a) The Superintendent and the President of the state board may enter into a memorandum of understanding with a local educational agency.

(b) Participating local educational agencies shall enter into a memorandum of understanding, with the Superintendent and the President of the state board, that meets the requirements expressed in the Race to the Top guidelines and that is signed by as many as possible of each participating local educational agency's:

- (1) Superintendent of schools, or their equivalents.
- (2) President of the local governing boards, or their equivalents.
- (3) Leader of any local collective bargaining unit for teachers, if applicable.

<< CA ST § 53101 >>

53101. (a) The Governor, the Superintendent, and the state board shall jointly develop a single high-quality plan or multiple plans, in collaboration with participating local educational agencies, as necessary, to submit as part of an application for federal Race to the Top funds, authorized under the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(b) The Department of Finance, concurrent with the submission of the plan to the Attorney General, shall provide the appropriate policy and fiscal committees of both houses of the Legislature with a copy of the state plan or plans, including any amendments.

(c) The plan submitted pursuant to subdivision (b) shall include a budget or expenditure plan consistent with the requirements of the Race to the Top program and application. At a minimum, the plan shall address how the Race to the Top program funds and any other applicable federal funds shall be used to provide resources to the low-achieving and persistently lowest-achieving schools as defined in this chapter. These resources may include, but are not necessarily limited to, professional development, technical assistance, and partnering with schools that have successfully transitioned from low- to higher-performing status.

(d) It is the intent of the Legislature that funding for local educational agencies be the highest priority in the allocation of Race to the Top program funds.

<< CA ST § 53102 >>

53102. (a) On or before January 1, 2011, the Superintendent shall contract for an independent evaluation of the implementation and impact of the state plan submitted in application for a federal Race to the Top Fund competitive grant award.

(b) On or before September 1, 2010, the Superintendent shall convene a working group consisting of staff representing the policy and fiscal committees of both houses of the Legislature, the Legislative Analyst's Office, the Department of Finance, the Governor, the state board, and the department to do all of the following:

- (1) Jointly develop the parameters of the evaluation.

(2) Make recommendations regarding development of any request for proposals or request for applications used to solicit contract proposals, and regarding the selection of the independent evaluator.

(c) The Superintendent shall provide to the Legislature, the Governor, and the state board:

(1) An interim evaluation report on or before June 1, 2012.

(2) The final evaluation report on or before June 1, 2014.

(d) The department shall use federal funds made available from the Race to the Top Fund and detailed in the expenditure plan required pursuant to subdivision (c) of Section 53101 for the purpose of contracting for this evaluation.

<< CA ST § 53103 >>

53103. The Legislature finds and declares that this act is declaratory of the requirements and definitions specified in the federal guidelines for the federal Race to the Top Fund. It is the intent of the Legislature that, to the extent that the federal guidelines are revised, the state plan or plans also be revised accordingly.

#### Article 2. Intervening in the Persistently Lowest-Achieving Schools

<< CA ST § 53200 >>

53200. For purposes of this article, the following definitions apply:

(a) "Low-achieving school" means a school described in subdivision (a) of Section 53201.

(b) "Persistently lowest-achieving school" means a school identified pursuant to subdivisions (a) to (f), inclusive, of Section 53201.

<< CA ST § 53201 >>

53201. The Superintendent and the state board shall establish a list of schools according to the following:

(a) Identify any Title I school in improvement, corrective action, or restructuring.

(b) Identify the lowest 5 percent of the schools in subdivision (a) as measured by the academic achievement of all pupils in a school in terms of proficiency on the state's assessment under Section 1111(b)(3) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) in reading/language arts and mathematics, combined pursuant to subdivision (h).

(c) Identify any secondary school that is eligible for, but that does not receive, Title I funds and is in the lowest 5 percent of secondary schools as measured by the academic achievement of all pupils in a school in terms of proficiency on the state's assessment under Section 1111(b)(3) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) in reading/language arts and mathematics, combined pursuant to subdivision (h).

(d) Add to the schools identified pursuant to subdivisions (a) to (c), inclusive, any high school that has had a graduation rate, as defined in Section 200.19(b) of Title 34 of the Code of Federal regulations, that is less than

60 percent in each of the previous three years.

(e) To the extent allowable under federal law, exclude from the schools identified pursuant to subdivisions (a) to (d), inclusive, a school that meets any of the following, except as provided in subdivision (f):

(1) The school is a county community school operated pursuant to Chapter 6.5 (commencing with Section 1980) of Part 2 of Division 1 of Title 1.

(2) The school is a juvenile court school operated pursuant to Article 2.5 (commencing with Section 48645) of Chapter 4 of Part 27.

(3) The school provides educational services exclusively to individuals with exceptional needs as defined in Section 56026.

(4) The school has experienced academic growth of at least 50 points over the previous five years as measured by the Academic Performance Index, using the most recent data available.

(f) Notwithstanding subdivision (e), a school that meets any of the criteria in subdivision (e) shall not be excluded from the schools identified pursuant to subdivisions (a) to (d), inclusive, if both the Superintendent and the state board find cause not to exclude the school.

(g) To the extent allowable under federal law, a community day school, operated pursuant to Article 3 (commencing with Section 48660) of Chapter 4 of Part 27, may be excluded from the schools identified pursuant to subdivisions (a) to (d), inclusive, if both the Superintendent and the state board find cause to exclude the school.

(h) For the purposes of identifying the lowest 5 percent of the schools pursuant to subdivisions (b) and (c), the Superintendent and the state board may use a methodology consistent with the methodology used to calculate the Academic Performance Index in order to create composite results across content areas and grade levels in reading/language arts and mathematics pursuant to subdivisions (b) and (c), unless the Superintendent and the state board develop a more appropriate methodology to meet the requirements of subdivisions (b) and (c).

(i) Prior to the implementation of subdivision (h), the Superintendent and the state board shall notify the appropriate policy and fiscal committees of the Legislature.

<< CA ST § 53201.5 >>

53201.5. The Superintendent shall notify the governing board of a school district, county superintendent of schools, or the governing body of a charter school or its equivalent, that one or more of the schools in its jurisdiction have been identified as a persistently lowest-achieving school.

<< CA ST § 53202 >>

53202. (a) For purposes of implementing the federal Race to the Top program established by Sections 14005 and 14006 of Title XIV of the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), the governing board of a school district, county superintendent of schools, or the governing body of a charter school or its equivalent, shall implement, for any school identified by the Superintendent as persistently lowest-achieving pursuant to subdivision (b) of Section 53200, unless the Superintendent and the state board determ-

ines, to the extent allowable under federal law, that the school has implemented a reform within the last two years that conforms to the requirements of the interventions required by the Race to the Top program and is showing significant progress, one of the following four interventions for turning around persistently lowest-achieving schools described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009:

(1) The turnaround model.

(2) The restart model.

(3) School closure.

(4) The transformation model.

(b) Prior to the governing board meeting to select one of the four interventions described in subdivision (a), the governing board of a school district, county superintendent of schools, or the governing body of a charter school or its equivalent, with one or more persistently lowest-achieving schools shall hold at least two public hearings to notify staff, parents, and the community of the designation and to seek input from staff, parents, and the community regarding the option or options most suitable for the applicable school or schools in its jurisdiction. At least one of those public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest-achieving.

(c) In addition to meeting the requirements specified in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009, a persistently lowest-achieving school implementing the turnaround or transformation model may participate in a school-to-school partnership program by working with a mentor school that has successfully transitioned from a low-achieving school to a higher-achieving school.

(1) For purposes of this article, a mentor school is a school that meets either of the following:

(A) The school has exited Program Improvement pursuant to the No Child Left Behind Act.

(B) The school has increased, in the statewide rankings based on the Academic Performance Index, by two or more deciles over the last five years, using the most recent data available.

(2) The principal and, at the discretion of the principal, the staff of a mentor school shall provide guidance to a persistently lowest-achieving school to develop a reform plan for the school using the required elements of the turnaround or transformation model, and provide guidance and advice on how the mentor school was able to transform the culture of the school from low-achieving to higher-achieving and how that transformation could be replicated at the school implementing a turnaround or transformation model.

(3) To the extent that federal funds are made available for this purpose pursuant to subdivision (c) of Section 53101, the mentor school shall receive funds for serving as a mentor school. As a condition for receipt of funds, the principal, and at the principal's discretion, the staff, of a mentor school shall meet regularly with the assigned persistently lowest-achieving school for a period of at least three years.

<< CA ST § 53203 >>

53203. (a) The regional consortia authorized under Section 52059, in collaboration with the department, from funds provided for this purpose pursuant to subdivision (c) of Section 53101, shall provide, at a minimum, technical assistance and support to local educational agencies with one or more persistently lowest-achieving schools to assist with the implementation of the duties specified for any of the four interventions for persistently lowest-achieving schools pursuant to Section 53202.

(b) Funds for the regional consortia shall be distributed based on the number of persistently lowest-achieving schools identified pursuant to this section and the pupil enrollment of these schools.

(c) It is the intent of the Legislature that the regional consortia coordinate the duties described in subdivision (a) with the duties performed pursuant to Section 52059 as it relates to schools and districts identified in program improvement pursuant to the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(d) The areas of technical assistance and support pursuant to this section may include, but are not limited to, any of the following:

(1) Identifying strategies that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the pupils at the school, including financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions.

(2) Identifying strategies that provide increased instructional time.

(3) Implementing any of the professional development activities authorized in the state's plan or application submitted for the federal Race to the Top program.

(4) Developing a new governance structure that may include the establishment of a new turnaround office, located within the local educational agency or the department, that a school implementing the turnaround model will report to.

(5) Developing social-emotional and community-oriented services, including strategies for parental involvement and services that can be located at the schoolsite.

(6) Identifying, reviewing, and recommending quality charter school operators, charter management organizations, or education management organizations that can operate a persistently lowest-achieving school.

(7) Identifying higher-achieving schools in the school district, including charter schools, to relocate pupils attending a school that is scheduled for closure.

(8) Developing, in consultation with teachers and principals, a rigorous, transparent, and equitable evaluation system for teachers and principals that includes the use of pupil growth data and other factors such as multiple observation-based assessments that all schools implementing the turnaround or transformation model may use.

(9) Identifying strategies to identify and reward school leaders, teachers, and other staff who, in implementing the transformation model, have increased pupil achievement and high school graduation rates and have identified and removed those, who, after ample opportunities, have been provided for them to improve their professional practice, have not done so.

(10) Identifying and approving mentor schools pursuant to subdivision (c) of Section 53202. The regional con-

sortia shall first seek eligible mentor schools located within the district of each of the schools implementing the turnaround or transformation model.

(11) Consistent with the collective bargaining agreement, assisting a local educational agency in doing any of the following:

(A) Meeting federal guidelines under Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the federal Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009, which encourages the state to ensure that persistently lowest-achieving schools are not required to accept a teacher without mutual consent of the teacher and principal, regardless of the teacher's seniority.

(B) Implementing schoolsite-based teacher hiring decisions.

(C) Giving persistently lowest-achieving schools first priority in selecting from the qualified district applicant pool, among those teachers who have specifically applied to work at the school.

SEC. 9. Section 60601 of the Education Code is amended to read:

<< CA ST § 60601 >>

60601. This chapter shall ~~\*\*\* become inoperative on July 1, 2013,~~ and as of ~~\*\*\* January 1, 2014,~~ is repealed, unless a later enacted statute that is enacted before January 1, ~~2014,~~ deletes or extends ~~\*\*\* the dates on which it becomes inoperative and is repealed.~~

SEC. 10. Section 60603 of the Education Code is amended to read:

<< CA ST § 60603 >>

60603. ~~\*\*\*~~ As used in this chapter:

~~(a)~~ "Achievement test" means any standardized test that measures the level of performance that a pupil has achieved in the core curriculum areas.

~~(b)~~ "Assessment of applied academic skills" means a form of assessment that requires pupils to demonstrate their knowledge of, and ability to apply, academic knowledge and skills in order to solve problems and communicate. It may include, but is not limited to, writing an essay response to a question, conducting an experiment, or constructing a diagram or model. An assessment of applied academic skills may not include assessments of personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem.

~~(c)~~ "Basic academic skills" means those skills in the subject areas of reading, spelling, written expression, and mathematics that provide the necessary foundation for mastery of more complex intellectual abilities, including the synthesis and application of knowledge.

~~(d)~~ "Content standards" means the specific academic knowledge, skills, and abilities that all public schools in this state are expected to teach and all pupils expected to learn in each of the core curriculum areas, at each grade level tested.

~~(e)~~ "Core curriculum areas" means the areas of reading, writing, mathematics, history-social science, and sci-



ence.

**(f)** “Diagnostic assessment” means interim assessments of the current level of achievement of a pupil that serves both of the following purposes:

- (1)** The identification of particular academic standards or skills a pupil has or has not yet achieved.
  - (2)** The identification of possible reasons that a pupil has not yet achieved particular academic standards or skills.
- (g)** “Direct writing assessment” means an assessment of applied academic skills that requires pupils to use written expression to demonstrate writing skills, including writing mechanics, grammar, punctuation, and spelling.
- (h)** “End of course exam” means a comprehensive and challenging assessment of pupil achievement in a particular subject area or discipline.

**(i)** “Performance standards” are standards that define various levels of competence at each grade level in each of the curriculum areas for which content standards are established. Performance standards gauge the degree to which a pupil has met the content standards and the degree to which a school or school district has met the content standards.

**(j)** “Publisher” means a commercial publisher or any other public or private entity, other than the department, which is able to provide tests or test items that meet the requirements of this chapter.

**(k)** “Statewide pupil assessment program” means the systematic achievement testing of pupils in grades 2 to 11, inclusive, pursuant to the standardized testing and reporting program under Article 4 (commencing with Section 60640) and the assessment of basic academic skills and applied academic skills, administered to pupils in grade levels specified in subdivision (c) of Section 60605, required by this chapter in all schools within each school district by means of tests designated by the state board.

\*\*\*

SEC. 11. Section 60604 of the Education Code is amended to read:

<< CA ST § 60604 >>

60604. (a) The Superintendent shall design and implement, consistent with the timetable and plan required pursuant to subdivision (b), a statewide pupil assessment program consistent with the testing requirements of this article in accordance with the objectives set forth in Section 60602. That program shall include all of the following:

(1) A plan for producing valid, reliable, and comparable individual pupil scores in grades 2 to 11, inclusive, and a comprehensive analysis of these scores based on the results of the achievement test designated by the state board that assesses a broad range of basic academic skills pursuant to the Standardized Testing and Reporting (STAR) Program established by Article 4 (commencing with Section 60640).

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 2 to 11, inclusive.

(3) Statewide academically rigorous content and performance standards that reflect the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem.

(4) A statewide system that provides the results of testing in a manner that reflects the degree to which pupils are achieving the academically rigorous content and performance standards adopted by the state board.

(5) The alignment of assessment with the statewide academically rigorous content and performance standards adopted by the state board.

(6) The active, ongoing involvement of parents, classroom teachers, administrators, other educators, governing board members of school districts, and the public in all phases of the design and implementation of the statewide pupil assessment program.

(7) The development of a contract or contracts with a publisher or publishers, after the approval of statewide academically rigorous content standards by the state board, for the development of performance standards and assessments of applied academic skills designed to test pupils' knowledge of academic skills and abilities to apply that knowledge and those skills in order to solve problems and communicate.

(b) The Superintendent shall develop and annually update for the Legislature a five-year cost projection, implementation plan, and timetable for implementing the program described in subdivision (a). The annual update shall be submitted on or before March 1 of each year to the chairperson of the fiscal subcommittee considering budget appropriations in each house. The update shall explain any significant variations from the five-year cost projection for the current year budget and the proposed budget.

(c) The Superintendent shall provide each school district with guidelines for professional development that are designed to assist classroom teachers to use the results of the assessments administered pursuant to this chapter to modify instruction for the purpose of improving pupil learning. These guidelines shall be developed in consultation with classroom teachers and approved by the state board before dissemination.

(d) The Superintendent and the state board shall consider comments and recommendations from school districts and the public in the development, adoption, and approval of assessment instruments.

(e) The results of the achievement test administered pursuant to Article 4 (commencing with Section 60640) shall be returned to the school district within the period of time specified by the state board.

**\*\*\***

SEC. 12. Section 60604.5 is added to the Education Code, to read:

<< CA ST § 60604.5 >>

60604.5. It is the intent of the Legislature that the reauthorization of the statewide pupil assessment program includes all of the following:

(a) A plan for transitioning to a system of high-quality assessments, as defined in the federal Race to the Top guidance and regulations.

(b) Alignment with the standards developed pursuant to subdivision (d) of Section 60605.8.

(c) Any common assessments aligned with the standards developed pursuant to subdivision (d) of Section 60605.8.

(d) Conforms to the assessment requirements of any reauthorization of the federal Elementary and Secondary Education Act or any other federal law that effectively replaces that act.

SEC. 13. Section 60605.6 of the Education Code is amended to read:

<< CA ST § 60605.6 >>

60605.6. Subject to the availability of funds ~~appropriated~~ in the annual Budget Act for this purpose, the Superintendent, upon approval of the state board, shall contract for the development and distribution of workbooks, as follows:

(a) One workbook to be distributed to all pupils in grade 10. This workbook shall contain information on the proficiency levels that must be demonstrated by pupils on the high school exit examination described in Chapter 9 (commencing with Section 60850). The workbook also shall contain sample questions, with explanations describing how these sample questions test pupil knowledge of the language arts and mathematics content standards adopted by the state board pursuant to Section 60605.

(b) Separate workbooks for each of grades 2 to 11, inclusive. Each pupil in grades 2 to 11, inclusive, who is required to take the achievement tests described in Section 60642.5 shall receive a copy of the workbook designed for the same grade level in which the pupil is enrolled. These workbooks shall contain material to assist pupils and their parents with standards-based learning, including the grade appropriate academic content standards adopted by the state board pursuant to Section 60605 and sample questions that require knowledge of these standards to answer. The workbooks also shall describe how the sample questions test knowledge of the state board adopted academic content standards.

**\* \* \***

SEC. 14. Section 60605.7 is added to the Education Code, to read:

<< CA ST § 60605.7 >>

60605.7. The Superintendent, the state board, and any other entity or individual designated by the Governor shall participate in the Common Core State Standards Initiative consortium sponsored by the National Governors Association and the Council of Chief State School Officers or any associated or related interstate collaboration to jointly develop common high-quality standards or assessments aligned with the common set of standards.

SEC. 15. Section 60605.8 is added to the Education Code, to read:

<< CA ST § 60605.8 >>

60605.8. (a) There is hereby established the Academic Content Standards Commission. The commission shall consist of 21 members, appointed as follows:

- (1) Eleven members appointed by the Governor.
- (2) Five members appointed by the Senate Committee on Rules.
- (3) Five members appointed by the Speaker of the Assembly.
- (b) Members of the commission shall serve at the pleasure of the appointing authority.
- (c) Not less than half of the members appointed by each of the appointing authorities pursuant to subdivision (a) shall be current public school elementary or secondary classroom teachers.
- (d) The commission shall develop academic content standards in language arts and mathematics. The standards shall be internationally benchmarked and build toward college and career readiness by the time of high school graduation. Unless otherwise allowed by the Secretary of the United States Department of Education, at least 85 percent of these standards shall be the common core academic standards developed by the consortium or interstate collaboration set forth in Section 60605.7.
- (e) Pursuant to the Bagley-Keene Act, Article 9 (commencing with Sec. 11120) of Division 3 of Title 2 of the Government Code, all meetings and hearings of the commission shall be open and available to the public.
- (f) On or before July 15, 2010, the commission shall present its recommended academic content standards to the state board.
- (g) On or before August 2, 2010, the state board shall do either of the following:
  - (1) Adopt the academic content standards as proposed by the commission.
  - (2) Reject the academic content standards as proposed by the commission. If the state board rejects the standards it shall provide a specific written explanation to the Superintendent, the Governor, and the Legislature of the reasons why the proposed standards were rejected.
- (h) The Superintendent and state board shall present to the Governor and to the appropriate policy and fiscal committees of the Legislature a schedule and implementation plan for integrating the academic content standards adopted pursuant to this section into the state educational system.

SEC. 16. Section 60605.9 is added to the Education Code, to read:

<< CA ST § 60605.9 >>

60605.9. Notwithstanding any other provision of law, the limitation in paragraph (6) of subdivision (c) of Section 60200, which requires that other criteria be approved at least 30 months prior to the date that the materials are to be approved for adoption, shall not apply to instructional materials adopted by the state board that are aligned with the content standards adopted pursuant to Section 60605.8 in each of the content areas for which standards are revised or adopted.

SEC. 17. Section 60606 of the Education Code is amended to read:

<< CA ST § 60606 >>

60606. (a) After adopting an assessment of applied academic skills for use in grades 4, 5, 8, and 10 pursuant to Section 60605, the state board shall submit the instrument, once designated or adopted, for review by the Statewide Pupil Assessment Review Panel, which is hereby established.

(b) The panel shall consist of six members. Three members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the Superintendent. A majority of the panel shall consist of parents whose children attend public schools in the state in kindergarten and grades 1 to 12, inclusive.

(c) Panel members shall serve two-year terms, without compensation. No panel member shall serve more than two consecutive terms.

(d) The panel shall review the instrument specified in subdivision (a) in order to ensure that the content of the instrument complies with the requirements of Section 60614. Notwithstanding any other provision of law, the panel may meet in closed session with a publisher for the purpose of addressing questions and clarifying issues that relate to ensuring that the content of the publisher's test or assessment, as the case may be, complies with the requirements of Section 60614.

(e) The panel shall report its findings and recommendations to the state board within 10 days of its receipt of the instrument. If the panel fails to report within the required 10 days, the test or assessment shall be deemed acceptable to the panel.

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SEC. 18. Section 60640 of the Education Code is amended to read:

<< CA ST § 60640 >>

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) From the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 2 to 11, inclusive, the standards-based achievement test provided for in Section 60642.5. The state board shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils within the testing period established by the state board in subdivision (b).

(d) The governing board of the school district may administer achievement tests in grades other than those required by subdivision (b) as it deems appropriate.

(e) Pursuant to Section 1412(a)(17) of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing requirement of subdivision (b) with appropriate accommodations in administration, where necessary, and those individuals with exceptional needs who are unable to participate in the testing, even with accommodations, shall be given an alternate assessment.

(f)(1) At the option of the school district, pupils with limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, may take a second achievement test in their primary language. Primary language tests administered pursuant to this subdivision and subdivision (g) shall be subject to the requirements of subdivision (a) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable.

(2) Notwithstanding any other law, the state board shall designate for use, as part of this program, a single primary language test in each language for which a test is available for grades 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Section 60643, as applicable.

(3)(A) The department shall use funds made available pursuant to Title VI of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) and appropriated by the annual Budget Act for the purpose of developing and adopting primary language assessments that are aligned to the state academic content standards. Subject to the availability of funds, primary language assessments shall be developed and adopted for reading/language arts and mathematics in the dominant primary language of limited-English-proficient pupils. The dominant primary language shall be determined by the count in the annual language census of the primary language of each limited-English-proficient pupil enrolled in the California public schools.

(B) Once a dominant primary language assessment is available for use for a specific grade level, it shall be administered in place of the assessment designated pursuant to paragraph (1) for that grade level.

(C) In choosing a contractor to develop a primary language assessment the state board shall consider the criteria for choosing a contractor or test publisher as specified by Section 60643, and as specified by Section 60642.5, as applicable.

(D) Subject to the availability of funds, the assessments shall be developed in grade order starting with the lowest grade subject to the STAR Program.

(E) If the state board contracts for the development of primary language assessments or test items to augment an existing assessment, the state shall retain ownership rights to the assessment and the test items. With the approval of the state board, the department may license the test for use in other states subject to a compensation agreement approved by the Department of Finance.

(F) On or before January 1, 2006, the department shall submit to the Legislature a report on the development and implementation of the initial primary language assessments and recommendations on the development and implementation of future assessments and funding requirements.

(g) A pupil identified as limited English proficient pursuant to the administration of a test made available pursuant to Section 60810 who is enrolled in any of grades 2 to 11, inclusive, and who either receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months shall be required to take a test in his or her primary language if a test is available.

(h)(1) The Superintendent shall apportion funds to school districts to enable school districts to meet the requirements of subdivisions (b), (e), (f), and (g).

(2) The state board annually shall establish the amount of funding to be apportioned to school districts for each

test administered and annually shall establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the annual Budget Act, and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (e), (f), and (g).

(3) An adjustment to the amount of funding to be apportioned per test shall not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of funding to be apportioned per test shall be submitted in writing to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(i) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the department and the contractor, are "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the applicable fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202, for that fiscal year.

(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the Superintendent all of the following:

(1) The number of pupils enrolled in the school district in grades 2 to 11, inclusive.

(2) The number of pupils to whom an achievement test was administered in grades 2 to 11, inclusive, in the school district.

(3) The number of pupils in paragraph (1) who were exempted from the test at the request of their parents or guardians.

(k) The Superintendent and the state board are authorized and encouraged to assist postsecondary educational institutions to use the assessment results of the California Standards Tests, including, but not limited to, the augmented California Standards Tests, for academic credit, placement, or admissions processes.

(l) The Superintendent, with the approval of the state board, annually shall release to the public test items from the standards-based achievement tests pursuant to Section 60642.5 administered in previous years. The minimum number of test items released per year shall be equal to 25 percent of the total number of test items on the test administered in the previous year.

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SEC. 19. Section 60643 of the Education Code is amended to read:

<< CA ST § 60643 >>

60643. (a) To be eligible for consideration under Section 60642.5 by the state board, test publishers shall agree in writing each year to meet the following requirements, as applicable, if selected:

- (1) Enter into an agreement, pursuant to subdivision (e) or (f), with the department by October 15 of that year.
  - (2) Align the standards-based achievement test provided for in Section 60642.5 to the academically rigorous content and performance standards adopted by the state board.
  - (3) Comply with subdivisions (c) and (d) of Section 60645.
  - (4) Provide valid and reliable individual pupil scores to parents or guardians, teachers, and school administrators.
  - (5) Provide valid and reliable aggregate scores to school districts and county boards of education in all of the following forms and formats:
    - (A) Grade level.
    - (B) School level.
    - (C) District level.
    - (D) Countywide.
    - (E) Statewide.
    - (F) Comparison of statewide scores relative to other states.
  - (6) Provide disaggregated scores, based on limited-English-proficient status and nonlimited-English-proficient status. For purposes of this section, pupils with “nonlimited-English-proficient status” shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These scores shall be provided to school districts and county boards of education in the same forms and formats listed in paragraph (5).
  - (7) Provide disaggregated scores by pupil gender and ethnicity and provide disaggregated scores based on whether pupils are economically disadvantaged or not. These disaggregated scores shall be in the same forms and formats as listed in paragraph (5). In any one year, the disaggregation shall entail information already being collected by school districts, county offices of education, or charter schools.
  - (8) Provide disaggregated scores for pupils who have individualized education programs and have enrolled in special education, to the extent required by federal law. These scores shall be provided in the same forms and formats listed in paragraph (5). This section shall not be construed to exclude the scores of special education pupils from any state or federal accountability system.
  - (9) Provide information listed in paragraphs (5), (6), (7), and (8) to the department and the state board in the medium requested by each entity, respectively.
- (b) It is the intent of the Legislature that the publisher work with the Superintendent and the state board in developing a methodology to disaggregate statewide scores as required in paragraphs (6) and (7) of subdivision (a),



and in determining which variable indicated on the STAR testing document shall serve as a proxy for “economically disadvantaged” status pursuant to paragraph (7) of subdivision (a).

(c) Access to information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a pupil from the test if a parent or parents decline to disclose income. This chapter does not abridge or deny rights to confidentiality contained in the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable state and federal law that protect the confidentiality of information collected by educational institutions.

(d) Notwithstanding any other law, the publisher of the standards-based achievement test provided for in Section 60642.5 or any contractor under subdivision (f) shall comply with all of the conditions and requirements enumerated in subdivision (a), as applicable, to the satisfaction of the state board.

(e)(1) A publisher shall not provide a test described in Section 60642.5 or 60650 or in subdivision (f) of Section 60640 for use in California public schools, unless the publisher enters into a written contract with the department as set forth in this subdivision.

(2) The department shall develop, and the state board shall approve, a contract to be entered into with a publisher pursuant to paragraph (1). The department may develop the contract through negotiations with the publisher.

(3) For purposes of the contracts authorized pursuant to this subdivision, the department is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(4) The contracts shall include provisions for progress payments to the publisher for work performed or costs incurred in the performance of the contract. Not less than 10 percent of the amount budgeted for each separate and distinct component task provided for in each contract shall be withheld pending final completion of all component tasks by that publisher. The total amount withheld pending final completion shall not exceed 10 percent of the total contract price.

(5) The contracts shall require liquidated damages to be paid by the publisher in the amount of up to 10 percent of the total cost of the contract for any component task that the publisher through its own fault or that of its subcontractors fails to substantially perform by the date specified in the agreement.

(6) The contracts shall establish the process and criteria by which the successful completion of each component task shall be recommended by the department and approved by the state board.

(7) The publishers shall submit, as part of the contract negotiation process, a proposed budget and invoice schedule, that includes a detailed listing of the costs for each component task and the expected date of the invoice for each completed component task.

(8) The contracts shall specify the following component tasks, as applicable, that are separate and distinct:

(A) Development of new tests or test items as required by paragraph (2) of subdivision (a).

- (B) Test materials production or publication.
- (C) Delivery of test materials to school districts.
- (D) Test processing, scoring, and analyses.
- (E) Reporting of test results to the school districts, including, but not limited to, all reports specified in this section.
- (F) Reporting of test results to the department, including, but not limited to, the electronic files required pursuant to this section.
- (G) All other analyses or reports required by the Superintendent to meet the requirements of state and federal law and set forth in the agreement.
- (9) The contracts shall specify the specific reports and data files, if any, that are to be provided to school districts by the publisher and the number of copies of each report or file to be provided.
- (10) The contracts shall specify the means by which any delivery date for materials to each school district shall be verified by the publisher and the school district.
- (11) School districts may negotiate a separate agreement with the publisher for any additional materials or services not within the contracts specified in this subdivision, including, but not limited to, the administration of the tests to pupils in grade levels other than grades 2 to 11, inclusive. Any separate agreement is not within the scope of the contract specified in this subdivision.
- (f) The department, with approval of the state board, may enter into a separate contract for the development or administration of a test authorized pursuant to this part, including, but not limited to, item development, coordination of tests, assemblage of tests or test items, scoring, or reporting. The liquidated damages provision set forth in paragraph (5) of subdivision (e) shall apply to a contract entered into pursuant to this subdivision.

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SEC. 20. Section 60643.1 of the Education Code is amended to read:

<< CA ST § 60643.1 >>

60643.1. (a)(1) The test publisher designated by the state board pursuant to Section 60642 shall make available a reading list on the Internet by June 1 of the applicable school year. The reading list shall include an index that correlates ranges of pupil reading scores on the English language arts portion of the achievement test designated pursuant to Section 60642 to titles of materials that would be suitable for pupils in each of grades 2 to 11, inclusive, to read in order to improve their reading skills. This reading list shall include titles of books that allow a pupil to practice reading at his or her current reading level and that will assist the pupil in achieving a higher level of proficiency. To the extent possible, the index also shall include information related to the subject matter of each title. At a minimum, the reading list also shall categorize titles by subject matter and identify age-appropriate distinctions in the list.

(2) The test publisher, in each school year, shall make available for purchase by school districts a report that

provides a numerical distribution of the reading scores of all pupils in California who took the achievement test designated pursuant to Section 60642.

(3) The test publisher, in each school year, shall make available for purchase by school districts reading lists that can be distributed to pupils based on a pupil's age and the ranges of scores on the English language arts portion of the achievement test designated pursuant to Section 60642.

(4) The requirements of this subdivision shall become operative only upon a determination by the Director of Finance that funds are available to make an adjustment pursuant to subdivision (h) of Section 60640.

(b) The state board and the Superintendent jointly shall certify that the process used by the publisher to determine the reading levels of the corresponding reading list pursuant to paragraph (1) of subdivision (a) meets the following criteria:

(1) The process is educationally valid.

(2) The process results in a reading list for each reading span that provides titles at the pupil's current reading level and the next higher level for challenging practice.

(3) The process results in a selection from the universe of titles from the list developed pursuant to subdivision (d) that matches each reading level.

(4) The process is unbiased in the selection of publishers' titles from the legal compliance list.

(c) The titles listed at each reading level range posted on the Internet and the reading lists made available to school districts pursuant to subdivision (a), at a minimum, shall include all relevant literature materials approved as of September 1, 1999, as being legally compliant pursuant to Article 3 (commencing with Section 60040) of Chapter 1 of Part 33, and the titles listed in all of the content area reading and literature lists that are developed and published by the department and that have been determined by the department to meet the relevant reading level as certified pursuant to subdivision (b).

(d) By imposing the requirements of this section on publishers, it is not the intent of the Legislature to unfairly disadvantage any publisher who has otherwise met the requirements of this section or of Article 3 (commencing with Section 60040) of Chapter 1 of Part 33.

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SEC. 21. Section 60900 of the Education Code is amended to read:

<< CA ST § 60900 >>

60900. (a) The department shall contract for the development of proposals which will provide for the retention and analysis of longitudinal pupil achievement data on the tests administered pursuant to Chapter 5 (commencing with Section 60600), Chapter 7 (commencing with Section 60810), and Chapter 9 (commencing with Section 60850). The longitudinal data shall be known as the California Longitudinal Pupil Achievement Data System.

(b) The proposals developed pursuant to subdivision (a) shall evaluate and determine whether it would be most

effective, from both a fiscal and a technological perspective, for the state to own the system. The proposals shall additionally evaluate and determine the most effective means of housing the system.

(c) The California Longitudinal Pupil Achievement Data System shall be developed and implemented in accordance with all state rules and regulations governing information technology projects.

(d) The system or systems developed pursuant to this section shall be used to accomplish all of the following goals:

(1) To provide school districts and the department access to data necessary to comply with federal reporting requirements delineated in the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(2) To provide a better means of evaluating educational progress and investments over time.

(3) To provide local educational agencies information that can be used to improve pupil achievement.

(4) To provide an efficient, flexible, and secure means of maintaining longitudinal statewide pupil level data.

~~(5) To facilitate the ability of the state to publicly report data, as specified in Section 6401(e)(2)(D) of the federal America COMPETES Act (20 U.S.C. Sec. 9871) and as required by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5).~~

~~(6) To ensure that any data access provided to researchers, as required pursuant to the federal Race to the Top regulations and guidelines is provided, only to the extent that the data access is in compliance with the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g).~~

(e) In order to comply with federal law as delineated in the No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), the local educational agency shall retain individual pupil records for each test taker, including all of the following:

(1) All demographic data collected from the STAR Program test, high school exit examination, and English language development tests.

(2) Pupil achievement data from assessments administered pursuant to the STAR Program, high school exit examination, and English language development testing programs. To the extent feasible, data should include sub-score data within each content area.

(3) A unique pupil identification number to be identical to the pupil identifier developed pursuant to the California School Information Services, which shall be retained by each local educational agency and used to ensure the accuracy of information on the header sheets of the STAR Program tests, high school exit examination, and the English language development test.

(4) All data necessary to compile reports required by the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), including, but not limited to, dropout and graduation rates.

(5) Other data elements deemed necessary by the Superintendent, with approval of the state board, to comply with the federal reporting requirements delineated in the No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), and the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), after review and

comment by the advisory board convened pursuant to subdivision (h). Prior to the implementation of this paragraph with respect to adding data elements to the California Longitudinal Pupil Achievement Data System for the purpose of complying with the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), the department ~~and the appropriate postsecondary education agencies~~ shall submit an expenditure plan to the Department of Finance detailing any administrative costs to the department and costs to any local educational agency, if applicable. The Department of Finance shall provide to the Joint Legislative Budget Committee a copy of the expenditure plan within 10 days of receipt of the expenditure plan from the department.

~~(6) To enable the department, the University of California, the California State University, and the Chancellor of the California Community Colleges, to meet the requirements prescribed by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), these entities shall be authorized to obtain quarterly wage data, commencing July 1, 2010, on students who have attended their respective systems, to assess the impact of education on the employment and earnings of those students, to conduct the annual analysis of district-level and individual district or postsecondary education system performance in achieving priority educational outcomes, and to submit the required reports to the Legislature and the Governor. The information shall be provided to the extent permitted by federal statutes and regulations.~~

(f) The California Longitudinal Pupil Achievement Data System shall have all of the following characteristics:

(1) The ability to sort by demographic element collected from the STAR Program tests, high school exit examination, and English language development test.

(2) The capability to be expanded to include pupil achievement data from multiple years.

(3) The capability to monitor pupil achievement on the STAR Program tests, high school exit examination, and English language development test from year to year and school to school.

(4) The capacity to provide data to the state and local educational agencies upon their request.

(g) Data elements and codes included in the system shall comply with Sections 49061 to 49079, inclusive, and Sections 49602 and 56347, with Sections 430 to 438, inclusive, of Title 5 of the California Code of Regulations, with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), and with the federal Family Education Rights and Privacy Act (20 U.S.C. Sec. 1232g), Section 1242h of Title 20 of the United States Code, and related federal regulations.

(h) The department shall convene an advisory board consisting of representatives from the state board, the Secretary for Education, the Department of Finance, the State Privacy Ombudsman, the Legislative Analyst's Office, representatives of parent groups, school districts, and local educational agencies, and education researchers to establish privacy and access protocols, provide general guidance, and make recommendations relative to data elements. The department is encouraged to seek representation broadly reflective of the general public of California.

(i) Subject to funding being provided in the annual Budget Act, the department shall contract with a consultant for independent project oversight. The Director of Finance shall review the request for proposals for the contract. The consultant hired to conduct the independent project oversight shall twice annually submit a written report to the Superintendent, the state board, the advisory board, the Director of Finance, the Legislative Analyst, and the appropriate policy and fiscal committees of the Legislature. The report shall include an evaluation of the

extent to which the California Longitudinal Pupil Achievement Data System is meeting the goals described in subdivision (d) and recommendations to improve the data system in ensuring the privacy of individual pupil information and providing the data needed by the state and school districts.

(j) This section shall be implemented using federal funds received pursuant to the No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), which are appropriated for purposes of this section in Item 6110-113-0890 of Section 2.00 of the Budget Act of 2002 (Chapter 379 of the Statutes of 2002). The release of these funds is contingent on approval of an expenditure plan by the Department of Finance.

(k) For purposes of this chapter, a local educational agency shall include a county office of education, a school district, or charter school.

SEC. 22. Section 1095 of the Unemployment Insurance Code is amended to read:

<< CA UNEMP INS § 1095 >>

1095. The director shall permit the use of any information in his or her possession to the extent necessary for any of the following purposes and may require reimbursement for all direct costs incurred in providing any and all information specified in this section, except information specified in subdivisions (a) to (e), inclusive:

- (a) To enable the director or his or her representative to carry out his or her responsibilities under this code.
- (b) To properly present a claim for benefits.
- (c) To acquaint a worker or his or her authorized agent with his or her existing or prospective right to benefits.
- (d) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her obligations or safeguard his or her rights under this division or Division 3 (commencing with Section 9000).
- (e) To enable an employer to receive a reduction in contribution rate.
- (f) To enable federal, state, or local government departments or agencies, subject to federal law, to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services provided pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, or Part A of Title IV of the Social Security Act, where the verification or determination is directly connected with, and limited to, the administration of public social services.
- (g) To enable county administrators of general relief or assistance, or their representatives, to determine entitlement to locally provided general relief or assistance, where the determination is directly connected with, and limited to, the administration of general relief or assistance.
- (h) To enable state or local governmental departments or agencies to seek criminal, civil, or administrative remedies in connection with the unlawful application for, or receipt of, relief provided under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code or to enable the collection of expenditures for medical assistance services pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

(i) To provide any law enforcement agency with the name, address, telephone number, birth date, social security number, physical description, and names and addresses of present and past employers, of any victim, suspect, missing person, potential witness, or person for whom a felony arrest warrant has been issued, when a request for this information is made by any investigator or peace officer as defined by Sections 830.1 and 830.2 of the Penal Code, or by any federal law enforcement officer to whom the Attorney General has delegated authority to enforce federal search warrants, as defined under Sections 60.2 and 60.3 of Title 28 of the Code of Federal Regulations, as amended, and when the requesting officer has been designated by the head of the law enforcement agency and requests this information in the course of and as a part of an investigation into the commission of a crime when there is a reasonable suspicion that the crime is a felony and that the information would lead to relevant evidence. The information provided pursuant to this subdivision shall be provided to the extent permitted by federal law and regulations, and to the extent the information is available and accessible within the constraints and configurations of existing department records. Any person who receives any information under this subdivision shall make a written report of the information to the law enforcement agency that employs him or her, for filing under the normal procedures of that agency.

(1) This subdivision shall not be construed to authorize the release to any law enforcement agency of a general list identifying individuals applying for or receiving benefits.

(2) The department shall maintain records pursuant to this subdivision only for periods required under regulations or statutes enacted for the administration of its programs.

(3) This subdivision shall not be construed as limiting the information provided to law enforcement agencies to that pertaining only to applicants for, or recipients of, benefits.

(4) The department shall notify all applicants for benefits that release of confidential information from their records will not be protected should there be a felony arrest warrant issued against the applicant or in the event of an investigation by a law enforcement agency into the commission of a felony.

(j) To provide public employee retirement systems in California with information relating to the earnings of any person who has applied for or is receiving a disability income, disability allowance, or disability retirement allowance, from a public employee retirement system. The earnings information shall be released only upon written request from the governing board specifying that the person has applied for or is receiving a disability allowance or disability retirement allowance from its retirement system. The request may be made by the chief executive officer of the system or by an employee of the system so authorized and identified by name and title by the chief executive officer in writing.

(k) To enable the Division of Labor Standards Enforcement in the Department of Industrial Relations to seek criminal, civil, or administrative remedies in connection with the failure to pay, or the unlawful payment of, wages pursuant to Chapter 1 (commencing with Section 200) of Part 1 of Division 2 of, and Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of, the Labor Code.

(l) To enable federal, state, or local governmental departments or agencies to administer child support enforcement programs under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

(m) To provide federal, state, or local governmental departments or agencies with wage and claim information in its possession that will assist those departments and agencies in the administration of the Victims of Crime Program or in the location of victims of crime who, by state mandate or court order, are entitled to restitution that

has been or can be recovered.

(n) To provide federal, state, or local governmental departments or agencies with information concerning any individuals who are or have been:

(1) Directed by state mandate or court order to pay restitution, fines, penalties, assessments, or fees as a result of a violation of law.

(2) Delinquent or in default on guaranteed student loans or who owe repayment of funds received through other financial assistance programs administered by those agencies. The information released by the director for the purposes of this paragraph shall not include unemployment insurance benefit information.

(o) To provide an authorized governmental agency with any or all relevant information that relates to any specific workers' compensation insurance fraud investigation. The information shall be provided to the extent permitted by federal law and regulations. For the purposes of this subdivision, "authorized governmental agency" means the district attorney of any county, the office of the Attorney General, the Department of Industrial Relations, and the Department of Insurance. An authorized governmental agency may disclose this information to the State Bar, the Medical Board of California, or any other licensing board or department whose licensee is the subject of a workers' compensation insurance fraud investigation. This subdivision shall not prevent any authorized governmental agency from reporting to any board or department the suspected misconduct of any licensee of that body.

(p) To enable the Director of the Bureau for Private Postsecondary and Vocational Education, or his or her representatives, to access unemployment insurance quarterly wage data on a case-by-case basis to verify information on school administrators, school staff, and students provided by those schools who are being investigated for possible violations of Chapter 7 (commencing with Section 94700) of Part 59 of the Education Code.

(q) To provide employment tax information to the tax officials of Mexico, if a reciprocal agreement exists. For purposes of this subdivision, "reciprocal agreement" means a formal agreement to exchange information between national taxing officials of Mexico and taxing authorities of the State Board of Equalization, the Franchise Tax Board, and the Employment Development Department. Furthermore, the reciprocal agreement shall be limited to the exchange of information that is essential for tax administration purposes only. Taxing authorities of the State of California shall be granted tax information only on California residents. Taxing authorities of Mexico shall be granted tax information only on Mexican nationals.

(r) To enable city and county planning agencies to develop economic forecasts for planning purposes. The information shall be limited to businesses within the jurisdiction of the city or county whose planning agency is requesting the information, and shall not include information regarding individual employees.

(s) To provide the State Department of Developmental Services with wage and employer information that will assist in the collection of moneys owed by the recipient, parent, or any other legally liable individual for services and supports provided pursuant to Chapter 9 (commencing with Section 4775) of Division 4.5 of, and Chapter 2 (commencing with Section 7200) and Chapter 3 (commencing with Section 7500) of Division 7 of, the Welfare and Institutions Code.

(t) Nothing in this section shall be construed to authorize or permit the use of information obtained in the administration of this code by any private collection agency.



(u) The disclosure of the name and address of an individual or business entity that was issued an assessment that included penalties under Section 1128 or 1128.1 shall not be in violation of Section 1094 if the assessment is final. The disclosure may also include any of the following:

- (1) The total amount of the assessment.
- (2) The amount of the penalty imposed under Section 1128 or 1128.1 that is included in the assessment.
- (3) The facts that resulted in the charging of the penalty under Section 1128 or 1128.1.

(v) To enable the Contractors' State License Board to verify the employment history of an individual applying for licensure pursuant to Section 7068 of the Business and Professions Code.

(w) To provide any peace officer with the Division of Investigation in the Department of Consumer Affairs information pursuant to subdivision (i) when the requesting peace officer has been designated by the Chief of the Division of Investigation and requests this information in the course of and as part of an investigation into the commission of a crime or other unlawful act when there is reasonable suspicion to believe that the crime or act may be connected to the information requested and would lead to relevant information regarding the crime or unlawful act.

(x) To enable the Labor Commissioner of the Division of Labor Standards Enforcement in the Department of Industrial Relations to identify, pursuant to Section 90.3 of the Labor Code, unlawfully uninsured employers. The information shall be provided to the extent permitted by federal law and regulations.

(y) To enable the Chancellor of the California Community Colleges, in accordance with the requirements of Section 84754.5 of the Education Code, to obtain quarterly wage data, commencing January 1, 1993, on students who have attended one or more community colleges, to assess the impact of education on the employment and earnings of students, to conduct the annual evaluation of district-level and individual college performance in achieving priority educational outcomes, and to submit the required reports to the Legislature and the Governor. The information shall be provided to the extent permitted by federal statutes and regulations.

(z) To enable the Public Employees' Retirement System to seek criminal, civil, or administrative remedies in connection with the unlawful application for, or receipt of, benefits provided under Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code.

~~(aa) To enable the State Department of Education, the University of California, the California State University, and the Chancellor of the California Community Colleges, pursuant to the requirements prescribed by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), to obtain quarterly wage data, commencing July 1, 2010, on students who have attended their respective systems to assess the impact of education on the employment and earnings of those students, to conduct the annual analysis of district-level and individual district or postsecondary education system performance in achieving priority educational outcomes, and to submit the required reports to the Legislature and the Governor. The information shall be provided to the extent permitted by federal statutes and regulations.~~

SEC. 23. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 24. This act shall become operative only if Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

CA LEGIS 5EX 2 (2010)

END OF DOCUMENT

**CALIFORNIA 2010 LEGISLATIVE SERVICE**  
**2010 Portion of 2009-2010 5th Extraordinary Session**

Additions are indicated by ~~Text~~; deletions by  
**\*\*\***. Changes in tables are made but not highlighted.

CHAPTER 3

S.B. No. 4

SCHOOLS AND SCHOOL DISTRICTS--PUBLIC SCHOOLS--OPEN ENROLLMENT

AN ACT to add Article 10 (commencing with Section 48350) to Chapter 2 of Part 27 of Division 4 of Title 2 of, and to add Article 3 (commencing with Section 53300) to Chapter 18 of Part 28 of Division 4 of Title 2 of, the Education Code, relating to public schools.

[Filed with Secretary of State January 7, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 4, Romero. Public schools: Race to the Top.

(1) Existing law requires each person between the ages of 6 and 18 years not otherwise exempted to attend the public full-time day school or continuation school or classes in the school district in which his or her parent or guardian is a resident. Existing law authorizes 2 school districts to enter into an agreement that allows pupils to transfer between the 2 districts.

This bill would establish the Open Enrollment Act to enable pupils residing in the state to attend public schools in school districts other than their school district of residence, as defined. The bill would authorize the parent or guardian of a pupil enrolled in a low-achieving school, as defined, to submit an application for the pupil to attend a school in a school district of enrollment, as defined. The bill would authorize a school district of enrollment, as defined, to adopt specific, written standards for acceptance and rejection of applications for enrollment, subject to specified conditions and a specified priority scheme for applicants. Within 60 days of receiving an application for enrollment, the bill would require a school district of enrollment to notify the applicant parent or guardian and the school district of residence, as defined, in writing whether the application has been accepted or rejected and, if an application is rejected, state in the notification the reasons for the rejection. The bill would require the State Board of Education to adopt emergency regulations to implement these provisions. The bill would require the Superintendent to contract for an independent evaluation of the program using federal funds appropriated for that purpose and to provide a final evaluation report to the Legislature, the Governor, and the state board on or before October 1, 2014.

By requiring school districts to perform additional duties regarding the enrollment of nonresident pupils, this bill would impose a state-mandated local program.

(2) The federal American Recovery and Reinvestment Act of 2009 (ARRA), provides \$4.3 billion for the State Incentive Grant Fund (Race to the Top Fund), which is a competitive grant program designed to encourage and reward states that are implementing specified educational objectives. The ARRA requires a governor to apply on behalf of a state seeking a Race to the Top grant, and requires the application to include specified information. The United States Secretary of Education has issued regulations and guidelines regarding state eligibility under the Race to the Top program.

This bill would require a local educational agency to implement one of several specified reforms for any other school which, after one full school year, is subject to corrective action pursuant to a specified provision of federal law and continues to fail to make adequate yearly progress, and have an Academic Performance Index score of less than 800, and where at least 1/2 of the parents or legal guardians of pupils attending the school, or a combination of at least 1/2 of the parents or legal guardians of pupils attending the school and the elementary or middle schools that normally matriculate into a middle or high school, as applicable, sign a petition requesting the local educational agency to implement one of the alternative governance arrangements, unless the local educational agency makes a finding in writing why it cannot implement the recommended arrangement and instead designates in writing which of the other alternative governance arrangements it will implement in the subsequent school year. The bill would require the local educational agency to notify the Superintendent and the state board if it decides to implement a different alternative governance option.

The bill would limit this procedure to no more than 75 schools.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(4) The bill would provide that it would become operative only if SB 1 of the 5th Extraordinary Session is also enacted and becomes operative.

The people of the State of California do enact as follows:

<< CA EDUC pr. 48350 (a. hd.) >>

SECTION 1. Article 10 (commencing with Section 48350) is added to Chapter 2 of Part 27 of Division 4 of Title 2 of the Education Code, to read:

Article 10. Open Enrollment Act

<< CA EDUC § 48350 >>

48350. This article shall be known, and may be cited, as the Open Enrollment Act.

<< CA EDUC § 48351 >>

48351. The purpose of this article is to improve pupil achievement, in accordance with the regulations and guidelines for the federal Race to the Top Fund, authorized under the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and to enhance parental choice in education by providing additional options to pupils to enroll in public schools throughout the state without regard to the residence of their parents.

<< CA EDUC § 48352 >>

48352. For purposes of this article, the following definitions apply:

(a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:

(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.

(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:

(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools.

(B) Court, community, or community day schools shall not be included on the list.

(C) Charter schools shall not be included on the list.

(b) "Parent" means the natural or adoptive parent or guardian of a dependent child.

(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(d) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

<< CA EDUC § 48353 >>

48353. The state board shall adopt emergency regulations to implement this article.

<< CA EDUC § 48354 >>

48354. (a) The parent of a pupil enrolled in a low-achieving school may submit an application for the pupil to attend a school in a school district of enrollment pursuant to this article.

(b)(1) Consistent with the requirements of Section 1116(b)(1)(E) of the federal Elementary and Secondary Education Act of 2001 (20 U.S.C. Sec. 6301 et seq.), on or before the first day of the school year, or, if later, on the date the notice of program improvement, corrective action, or restructuring status is required to be provided under federal law the district of residence shall provide the parents and guardians of all pupils enrolled in a school determined in subdivision (a) of Section 48352 with notice of the option to transfer to another public school served by the school district of residence or another school district.

(2) An application requesting a transfer pursuant to this article shall be submitted by the parent of a pupil to the school district of enrollment prior to January 1 of the school year preceding the school year for which the pupil is requesting to transfer. The school district of enrollment may waive the deadline specified in this paragraph.

(3) The application deadline specified in paragraph (2) does not apply to an application requesting a transfer if the parent, with whom the pupil resides, is enlisted in the military and was relocated by the military within 90 days prior to submitting the application.

(4) The application may request enrollment of the pupil in a specific school or program within the school district of enrollment.

(5) A pupil may enroll in a school in the school district of enrollment in the school year immediately following the approval of his or her application.

(6) In order to provide priority enrollment opportunities for pupils residing in the school district, a school district of enrollment shall establish a period of time for resident pupil enrollment prior to accepting transfer applications pursuant to this article.

## &lt;&lt; CA EDUC § 48355 &gt;&gt;

48355. (a) The school district of residence of a pupil or a school district of enrollment to which a pupil has applied to attend may prohibit the transfer of the pupil pursuant to this article or limit the number of pupils who transfer pursuant to this article if the governing board of the district determines that the transfer would negatively impact either of the following:

(1) A court-ordered or voluntary desegregation plan of the district.

(2) The racial and ethnic balance of the district, provided that any policy adopted pursuant to this paragraph is consistent with federal and state law.

(b) A school district of residence shall not adopt any other policies that in any way prevent or discourage pupils from applying for a transfer to a school district of enrollment.

(c) Communications to parents or guardians by districts regarding the open enrollment options provided by this article shall be factually accurate and not target individual parents or guardians or residential neighborhoods on the basis of a child's actual or perceived academic or athletic performance or any other personal characteristic.

## &lt;&lt; CA EDUC § 48356 &gt;&gt;

48356. (a) A school district of enrollment may adopt specific, written standards for acceptance and rejection of applications pursuant to this article. The standards may include consideration of the capacity of a program, class, grade level, school building, or adverse financial impact. Subject to subdivision (b), and except as necessary in accordance with Section 48355, the standards shall not include consideration of a pupil's previous academic achievement, physical condition, proficiency in the English language, family income, or any of the individual characteristics set forth in Section 200.

(b) In considering an application pursuant to this article, a nonresident school district may apply its usual requirements for admission to a magnet school or a program designed to serve gifted and talented pupils.

(c) Subject to the rules and standards that apply to pupils who reside in the school district of enrollment, a resident pupil who is enrolled in one of the district's schools pursuant to this article shall not be required to submit an application in order to remain enrolled.

(d) A school district of enrollment shall ensure that pupils enrolled pursuant to standards adopted pursuant to this section are enrolled in a school with a higher Academic Performance Index than the school in which the pupil was previously enrolled and are selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, or any of the other characteristics set forth in subdivision (a), except that pupils applying for a transfer pursuant to this article shall be assigned priority for approval as follows:

(1) First priority for the siblings of children who already attend the desired school.

(2) Second priority for pupils transferring from a program improvement school ranked in decile 1 on the Academic Performance Index determined pursuant to subdivision (a) of Section 48352.

(3) If the number of pupils who request a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order identified in paragraphs (1) and (2) to select pupils at random until all of the available spaces are filled.

(e) The initial application of a pupil for transfer to a school within a school district of enrollment shall not be approved if the transfer would require the displacement from the desired school of any other pupil who resides within the attendance area of that school or is currently enrolled in that school.

(f) A pupil approved for a transfer to a school district of enrollment pursuant to this article shall be deemed to have fulfilled the requirements of Section 48204.

<< CA EDUC § 48357 >>

48357. Within 60 days of receiving an application pursuant to Section 48354, a school district of enrollment shall notify the applicant parent and the school district of residence in writing whether the application has been accepted or rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection.

<< CA EDUC § 48358 >>

48358. A school district of enrollment that enrolls a pupil pursuant to this article shall accept credits toward graduation that were awarded to the pupil by another school district and shall graduate the pupil if the pupil meets the graduation requirements of the school district of enrollment.

<< CA EDUC § 48359 >>

48359. (a) Each school district is encouraged to keep an accounting of all requests made for alternative attendance pursuant to this article and records of all disposition of those requests that may include, but are not limited to, all of the following:

(1) The number of requests granted, denied, or withdrawn. In the case of denied requests, the records may indicate the reasons for the denials.

(2) The number of pupils who transfer out of the district.

(3) The number of pupils who transfer into the district.

(4) The race, ethnicity, gender, self-reported socioeconomic status, and the school district of residence of each of the pupils described in paragraphs (2) and (3).

(5) The number of pupils described in paragraphs (2) and (3) who are classified as English learners or identified as individuals with exceptional needs, as defined in Section 56026.

(b) The information maintained pursuant to subdivision (a) may be reported to the governing board of the school district at a regularly scheduled meeting of the governing board.

<< CA EDUC § 48359.5 >>

48359.5. For a school district of enrollment that is a basic aid district, the apportionment of state funds for any average daily attendance credited pursuant to this article shall be 70 percent of the district revenue limit that would have been apportioned to the school district of residence. Apportionment of these funds shall begin in the second consecutive year of enrollment, and continue annually until the pupil graduates from, or is no longer enrolled in, the school district of enrollment. For purposes of this section, "basic aid school district" means a school district that does not receive an apportionment of state funds pursuant to subdivision (h) of Section 42238 for any fiscal year in which this subdivision may apply.

**(Publication page references are not available for this document.)**

<< CA EDUC § 48360 >>

48360. (a) From federal funds appropriated for this purpose, the Superintendent shall contract for an independent evaluation of the open enrollment program operated pursuant to this article. The evaluation shall, at a minimum, consider all of the following:

(1) The levels of, and changes in, academic achievement of pupils in school districts of residence and school districts of enrollment for pupils who do and do not elect to enroll in a school district of enrollment.

(2) Fiscal and programmatic effects on school districts of residence and school districts of enrollment.

(3) Numbers and demographic and socioeconomic characteristics of pupils who do and do not elect to enroll in a school district of enrollment.

(b) The Superintendent shall provide a final evaluation report to the Legislature, Governor, and state board on or before October 1, 2014.

<< CA EDUC § 48361 >>

48361. No exercise of discretion by a district of enrollment in its administration of this article shall be overturned absent a finding as designated by a court of competent jurisdiction that the district governing board acted in an arbitrary and capricious manner.

<< CA EDUC pr. 53300 (a. hd.) >>

SEC. 2. Article 3 (commencing with Section 53300) is added to Chapter 18 of Part 28 of Division 4 of Title 2 of the Education Code, to read:

Article 3. Parent Empowerment

<< CA EDUC § 53300 >>

53300. For any school not identified as a persistently lowest-achieving school under Section 53201 which, after one full school year, is subject to corrective action pursuant to paragraph (7) of Section 1116(b) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and continues to fail to make adequate yearly progress, and has an Academic Performance Index score of less than 800, and where at least one-half of the parents or legal guardians of pupils attending the school, or a combination of at least one-half of the parents or legal guardians of pupils attending the school and the elementary or middle schools that normally matriculate into a middle or high school, as applicable, sign a petition requesting the local educational agency to implement one or more of the four interventions identified pursuant to paragraphs (1) to (4), inclusive of subdivision (a) of Section 53202 or the federally mandated alternative governance arrangement pursuant to Section 1116(b)(8)(B)(v) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.), the local educational agency shall implement the option requested by the parents unless, in a regularly scheduled public hearing, the local educational agency makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options described in this section it will implement in the subsequent school year consistent with requirements specified in federal regulations and guidelines for schools subject to restructuring under Section 1116(b)(8) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and regulations and guidelines for the four interventions.

<< CA EDUC § 53301 >>

53301. (a) The local educational agency shall notify the Superintendent and the state board upon receipt of a petition under Section 53300 and upon its final disposition of that petition.



**(Publication page references are not available for this document.)**

(b) If the local educational agency indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the local educational agency shall notify the Superintendent and the state board that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in the federally mandated state plan under Section 1111(b)(2) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.).

<< CA EDUC § 53302 >>

53302. No more than 75 schools shall be subject to a petition authorized by this article.

(b) [FN1] A petition shall be counted toward this limit upon the Superintendent and state board receiving notice from the local educational agency of its final disposition of the petition.

<< CA EDUC § 53303 >>

53303. A local educational agency shall not be required to implement the option requested by the parent petition if the request is for reasons other than improving academic achievement or pupil safety.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 4. This act shall become operative only if Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

[FN1] No par. (a) in enrolled bill.

CA LEGIS 5EX 3 (2010)

END OF DOCUMENT



LEXSTAT CAL ED CODE 53100

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7, AND 8, AND URGENCY LEGISLATION THROUGH CH 713 OF THE 2010 REGULAR SESSION

EDUCATION CODE  
Title 2. ELEMENTARY AND SECONDARY EDUCATION  
Division 4. Instruction and Services  
Part 28. General Instructional Programs  
Chapter 18. Race to the Top -  
Article 1. General Provisions

**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 53100 (2010)*

**§ 53100. Implementation of the federal Race to the Top program, Generally**

For the purposes of implementing the federal Race to the Top program established by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5):

(a) The Superintendent and the President of the state board may enter into a memorandum of understanding with a local educational agency.

(b) Participating local educational agencies shall enter into a memorandum of understanding, with the Superintendent and the President of the state board, that meets the requirements expressed in the Race to the Top guidelines and that is signed by as many as possible of each participating local educational agency's:

- (1) Superintendent of schools, or their equivalents.
- (2) President of the local governing boards, or their equivalents.
- (3) Leader of any local collective bargaining unit for teachers, if applicable.

**HISTORY:**

Added Stats 2009-2010 ch 2 § 8 (SB 1XXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 2 provides:

SECTION 1. It is the intent of the Legislature to implement education reforms to dramatically improve the achievement of California's students. These reforms will ensure that California is positioned to be successful in the federal Race to the Top competition through the following reforms:

(a) Authorize the Governor, Superintendent of Public Instruction, and the State Board of Education to jointly develop a plan with local educational agencies for submission in the Race to the Top grant competition and provide participating local education agencies with the flexibility they need to implement activities in the state plan.

(b) Recruit, prepare, develop, retain, train for continual improvement, and reward effective teachers and principals, especially in the state's lowest performing schools, and provide alternative routes to certification for those who want to teach science, technology, engineering, and math subjects in order to attract professionals with hands-on experience in the classroom.

(c) Ensure that the rigor of the state's reading, writing, and mathematics academic content standards, curricula, and assessments is maintained so that all high school graduates are prepared for college and careers by establishing a process to adopt new standards based on the Common Core State Standards Initiative.

(d) Create robust data systems linking prekindergarten, K-12, higher education and workforce data to measure student success, improve instruction and student learning, and inform teachers, principals, students, policymakers, and the public of school performance.

(e) Turn around the state's persistently lowest-achieving schools by identifying them, presenting them with rigorous and comprehensive alternative models for reform, support the school-level cultural change that is necessary for successful school reform, and eliminate barriers to school turnarounds.

SEC. 24. This act shall become operative only if Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 3 of that session, effective April 13, 2010.

**Hierarchy Notes:**

Tit. 2, Div. 4, Pt. 28, Ch. 18 Note



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7, AND 8, AND URGENCY LEGISLATION THROUGH CH 713 OF THE 2010 REGULAR SESSION

EDUCATION CODE  
Title 2. ELEMENTARY AND SECONDARY EDUCATION  
Division 4. Instruction and Services  
Part 28. General Instructional Programs  
Chapter 18. Race to the Top  
Article 1. General Provisions

**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 53101 (2010)*

**§ 53101. Development of plans to submit as part of an application for federal Race to the Top funds**

(a) The Governor, the Superintendent, and the state board shall jointly develop a single high-quality plan or multiple plans, in collaboration with participating local educational agencies, as necessary, to submit as part of an application for federal Race to the Top funds, authorized under the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(b) The Department of Finance, concurrent with the submission of the plan to the Attorney General, shall provide the appropriate policy and fiscal committees of both houses of the Legislature with a copy of the state plan or plans, including any amendments.

(c) The plan submitted pursuant to subdivision (b) shall include a budget or expenditure plan consistent with the requirements of the Race to the Top program and application. At a minimum, the plan shall address how the Race to the Top program funds and any other applicable federal funds shall be used to provide resources to the low-achieving and persistently lowest-achieving schools as defined in this chapter. These resources may include, but are not necessarily limited to, professional development, technical assistance, and partnering with schools that have successfully transitioned from low- to higher-performing status.

(d) It is the intent of the Legislature that funding for local educational agencies be the highest priority in the allocation of Race to the Top program funds.

**HISTORY:**

Added Stats 2009-2010 ch 2 § 8 (SB 1XXXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 2 provides:

SEC. 24. This act shall become operative only if Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

For legislative intent, see 2009-2010 Note under *Ed C § 53100*.

Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 3 of that session, effective April 13, 2010.

**Hierarchy Notes:**

Tit. 2, Div. 4, Pt. 28, Ch. 18 Note



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EDUCATION CODE  
Title 2. ELEMENTARY AND SECONDARY EDUCATION  
Division 4. Instruction and Services  
Part 28. General Instructional Programs  
Chapter 18. Race to the Top  
Article 2. Intervening in the Persistently Lowest-Achieving Schools

**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 53200 (2010)*

**§ 53200. Definitions**

For purposes of this article, the following definitions apply:

(a) "Low-achieving school" means a school described in subdivision (a) of Section 53201.

(b) "Persistently lowest-achieving school" means a school identified pursuant to subdivisions (a) to (f), inclusive, of Section 53201.

**HISTORY:**

Added Stats 2009-2010 ch 2 § 8 (SB 1XXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 2 provides:

SEC. 24. This act shall become operative only if Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

For legislative intent, see 2009-2010 Note under *Ed C § 53100*.

Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 3 of that session, effective April 13, 2010.

**Hierarchy Notes:**

Tit. 2, Div. 4, Pt. 28, Ch. 18 Note



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EDUCATION CODE  
Title 2. ELEMENTARY AND SECONDARY EDUCATION  
Division 4. Instruction and Services  
Part 28. General Instructional Programs  
Chapter 18. Race to the Top  
Article 2. Intervening in the Persistently Lowest-Achieving Schools

**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 53201 (2010)*

**§ 53201. List of low-achieving schools**

The Superintendent and the state board shall establish a list of schools according to the following:

- (a) Identify any Title I school in improvement, corrective action, or restructuring.
- (b) Identify the lowest 5 percent of the schools in subdivision (a) as measured by the academic achievement of all pupils in a school in terms of proficiency on the state's assessment under Section 1111 (b)(3) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) in reading/language arts and mathematics, combined pursuant to subdivision (h).
- (c) Identify any secondary school that is eligible for, but that does not receive, Title I funds and is in the lowest 5 percent of secondary schools as measured by the academic achievement of all pupils in a school in terms of proficiency on the state's assessment under Section 1111(b)(3) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) in reading/language arts and mathematics, combined pursuant to subdivision (h).
- (d) Add to the schools identified pursuant to subdivisions (a) to (c), inclusive, any high school that has had a graduation rate, as defined in Section 200.19(b) of Title 34 of the Code of Federal regulations, that is less than 60 percent in each of the previous three years.
- (e) To the extent allowable under federal law, exclude from the schools identified pursuant to subdivisions (a) to (d), inclusive, a school that meets any of the following, except as provided in subdivision (f):
  - (1) The school is a county community school operated pursuant to Chapter 6.5 (commencing with Section 1980)



of Part 2 of Division 1 of Title 1.

(2) The school is a juvenile court school operated pursuant to Article 2.5 (commencing with Section 48645) of Chapter 4 of Part 27.

(3) The school provides educational services exclusively to individuals with exceptional needs as defined in Section 56026.

(4) The school has experienced academic growth of at least 50 points over the previous five years as measured by the Academic Performance Index, using the most recent data available.

(f) Notwithstanding subdivision (e), a school that meets any of the criteria in subdivision (e) shall not be excluded from the schools identified pursuant to subdivisions (a) to (d), inclusive, if both the Superintendent and the state board find cause not to exclude the school.

(g) To the extent allowable under federal law, a community day school, operated pursuant to Article 3 (commencing with Section 48660) of Chapter 4 of Part 27, may be excluded from the schools identified pursuant to subdivisions (a) to (d), inclusive, if both the Superintendent and the state board find cause to exclude the school.

(h) For the purposes of identifying the lowest 5 percent of the schools pursuant to subdivisions (b) and (c), the Superintendent and the state board may use a methodology consistent with the methodology used to calculate the Academic Performance Index in order to create composite results across content areas and grade levels in reading/language arts and mathematics pursuant to subdivisions (b) and (c), unless the Superintendent and the state board develop a more appropriate methodology to meet the requirements of subdivisions (b) and (c).

(i) Prior to the implementation of subdivision (h), the Superintendent and the state board shall notify the appropriate policy and fiscal committees of the Legislature.

**HISTORY:**

Added Stats 2009-2010 ch 2 § 8 (SB 1XXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 2 provides:

SEC. 24. This act shall become operative only if Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

For legislative intent, see 2009-2010 Note under *Ed C § 53100*.

Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 3 of that session, effective April 13, 2010.

**Hierarchy Notes:**

Tit. 2, Div. 4, Pt. 28, Ch. 18 Note



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**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 53201.5 (2010)*

**§ 53201.5. Notice of identification of persistently low-achieving schools**

The Superintendent shall notify the governing board of a school district, county superintendent of schools, or the governing body of a charter school or its equivalent, that one or more of the schools in its jurisdiction have been identified as a persistently lowest-achieving school.

**HISTORY:**

Added Stats 2009-2010 ch 2 § 8 (SB 1XXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 2 provides:

SEC. 24. This act shall become operative only if Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

For legislative intent, see 2009-2010 Note under *Ed C § 53100*.

Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 3 of that session, effective April 13, 2010.

**Hierarchy Notes:**

Tit. 2, Div. 4, Pt. 28, Ch. 18 Note



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**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 53202 (2010)*

**§ 53202. (Effective April 13, 2010) Implementation of interventions; Public hearing; Mentoring program**

(a) For purposes of implementing the federal Race to the Top program established by Sections 14005 and 14006 of Title XIV of the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), the governing board of a school district, county superintendent of schools, or the governing body of a charter school or its equivalent, shall implement, for any school identified by the Superintendent as persistently lowest-achieving pursuant to subdivision (b) of Section 53200, unless the Superintendent and the state board determines, to the extent allowable under federal law, that the school has implemented a reform within the last two years that conforms to the requirements of the interventions required by the Race to the Top program and is showing significant progress, one of the following four interventions for turning around persistently lowest-achieving schools described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009:

- (1) The turnaround model.
- (2) The restart model.
- (3) School closure.
- (4) The transformation model.

(b) Prior to the governing board meeting to select one of the four interventions described in subdivision (a), the governing board of a school district, county superintendent of schools, or the governing body of a charter school or its

equivalent, with one or more persistently lowest-achieving schools shall hold at least two public hearings to notify staff, parents, and the community of the designation and to seek input from staff, parents, and the community regarding the option or options most suitable for the applicable school or schools in its jurisdiction. At least one of those public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest-achieving.

(c) In addition to meeting the requirements specified in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009, a persistently lowest-achieving school implementing the turnaround or transformation model may participate in a school-to-school partnership program by working with a mentor school that has successfully transitioned from a low-achieving school to a higher-achieving school.

(1) For purposes of this article, a mentor school is a school that meets either of the following:

(A) The school has exited Program Improvement pursuant to the No Child Left Behind Act.

(B) The school has increased, in the statewide rankings based on the Academic Performance Index, by two or more deciles over the last five years, using the most recent data available.

(2) The principal and, at the discretion of the principal, the staff of a mentor school shall provide guidance to a persistently lowest-achieving school to develop a reform plan for the school using the required elements of the turnaround or transformation model, and provide guidance and advice on how the mentor school was able to transform the culture of the school from low-achieving to higher-achieving and how that transformation could be replicated at the school implementing a turnaround or transformation model.

(3) To the extent that federal funds are made available for this purpose pursuant to subdivision (c) of Section 53101, the mentor school shall receive funds for serving as a mentor school. As a condition for receipt of funds, the principal, and at the principal's discretion, the staff, of a mentor school shall meet regularly with the assigned persistently lowest-achieving school for a period of at least three years.

#### **HISTORY:**

Added Stats 2009-2010 ch 2 § 8 (SB 1XXXXX), effective April 13, 2010.

#### **NOTES:**

##### **Note**

Stats 2009-2010 5th Ex Sess ch 2 provides:

SEC. 24. This act shall become operative only if Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

#### **Editor's Notes**

For legislative intent, see 2009-2010 Note under *Ed C § 53100*.

Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 3 of that session, effective April 13, 2010.

**Hierarchy Notes:**

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**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 53203 (2010)*

**§ 53203. Technical assistance and support; Funding**

(a) The regional consortia authorized under Section 52059, in collaboration with the department, from funds provided for this purpose pursuant to subdivision (c) of Section 53101, shall provide, at a minimum, technical assistance and support to local educational agencies with one or more persistently lowest-achieving schools to assist with the implementation of the duties specified for any of the four interventions for persistently lowest-achieving schools pursuant to Section 53202.

(b) Funds for the regional consortia shall be distributed based on the number of persistently lowest-achieving schools identified pursuant to this section and the pupil enrollment of these schools.

(c) It is the intent of the Legislature that the regional consortia coordinate the duties described in subdivision (a) with the duties performed pursuant to Section 52059 as it relates to schools and districts identified in program improvement pursuant to the federal No Child Left Behind Act of 2001 (*20 U.S.C. Sec. 6301 et seq.*).

(d) The areas of technical assistance and support pursuant to this section may include, but are not limited to, any of the following:

(1) Identifying strategies that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the pupils at the school, including financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions.

(2) Identifying strategies that provide increased instructional time.

(3) Implementing any of the professional development activities authorized in the state's plan or application submitted for the federal Race to the Top program.

(4) Developing a new governance structure that may include the establishment of a new turnaround office, located within the local educational agency or the department, that a school implementing the turnaround model will report to.

(5) Developing social-emotional and community-oriented services, including strategies for parental involvement and services that can be located at the schoolsite.

(6) Identifying, reviewing, and recommending quality charter school operators, charter management organizations, or education management organizations that can operate a persistently lowest-achieving school.

(7) Identifying higher-achieving schools in the school district, including charter schools, to relocate pupils attending a school that is scheduled for closure.

(8) Developing, in consultation with teachers and principals, a rigorous, transparent, and equitable evaluation system for teachers and principals that includes the use of pupil growth data and other factors such as multiple observation-based assessments that all schools implementing the turnaround or transformation model may use.

(9) Identifying strategies to identify and reward school leaders, teachers, and other staff who, in implementing the transformation model, have increased pupil achievement and high school graduation rates and have identified and removed those, who, after ample opportunities, have been provided for them to improve their professional practice, have not done so.

(10) Identifying and approving mentor schools pursuant to subdivision (c) of Section 53202. The regional consortia shall first seek eligible mentor schools located within the district of each of the schools implementing the turnaround or transformation model.

(11) Consistent with the collective bargaining agreement, assisting a local educational agency in doing any of the following:

(A) Meeting federal guidelines under Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the federal Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009, which encourages the state to ensure that persistently lowest-achieving schools are not required to accept a teacher without mutual consent of the teacher and principal, regardless of the teacher's seniority.

(B) Implementing schoolsite-based teacher hiring decisions.

(C) Giving persistently lowest-achieving schools first priority in selecting from the qualified district applicant pool, among those teachers who have specifically applied to work at the school.

**HISTORY:**

Added Stats 2009-2010 ch 2 § 8 (SB 1XXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 2 provides:

SEC. 24. This act shall become operative only if Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.



**Editor's Notes**

For legislative intent, see 2009-2010 Note under *Ed C § 53100*.

Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 3 of that session, effective April 13, 2010.

**Hierarchy Notes:**

Tit. 2, Div. 4, Pt. 28, Ch. 18 Note



LEXSTAT CAL ED CODE 60601

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Article 1. General Provisions

**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 60601 (2010)*

**§ 60601. Repeal of chapter**

This chapter shall become inoperative on July 1, 2013, and as of January 1, 2014, is repealed, unless a later enacted statute that is enacted before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

**HISTORY:**

Added Stats 1995 ch 975 § 1 (AB 265). Amended Stats 1996 ch 69 § 1 (SB 430), effective June 21, 1996, operative until January 1, 2002; Stats 2001 ch 722 § 2 (SB 233); Stats 2004 ch 233 § 1 (SB 1448), repealed January 1, 2011; Stats 2007 ch 174 § 11 (SB 80), effective August 24, 2007, repealed January 1, 2012; Stats 2009-2010 5th Ex Sess ch 2 § 9 (SB 1XXXXX), effective April 13, 2010, inoperative July 1, 2013, repealed January 1, 2014.

**NOTES:**

**Former Sections:**

Former § 60601, similar to present *Ed C § 60602*, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1991 ch 760 § 2, and repealed, operative January 1, 1995, by the terms of former *Ed C § 60600.1*.

**Amendments:**

**1996 Amendment:**

Substituted "January 1, 2002" for "January 1, 2000" both times it appears.

**2001 Amendment:**

Substituted "January 1, 2005" for "January 1, 2002" both times it appears.

**2004 Amendment:**

Substituted (1) "January 1, 2011" for "January 1, 2005" in two places; and (2) "unless a later enacted statute that is enacted" for "unless a later enacted statute, which is enacted".

**2007 Amendment:**

Substituted "January 1, 2012" for "January 1, 2011" both times it appears.

**2010 Amendment: (5th Ex Sess ch 2)**

Substituted the section for the former section which read: "This chapter shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2012, deletes or extends that date."

**Note**

Stats 2007 ch 174 provides:

SEC. 35. It is the intent of the Legislature to enact legislation requiring the clear articulation of a data access policy that is both compliant with the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and related federal regulations and allows parents, educators, researchers, policymakers, and the public appropriate access to the longitudinal data that will be available in the California Longitudinal Pupil Achievement Data System (CALPADS). To further that intent, the State Department of Education shall provide a report, no later than August 1, 2007, to the Legislature, the Department of Finance, the Office of the Secretary for Education, and the Legislative Analyst's Office that includes all of the following:

(a) The current guideline used by the department regarding access to data within CALPADS.

(b) A summary of the ways in which other states interpret and apply the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) to longitudinal pupil data.

(c) Suggestions, based on current knowledge and understanding, for options to ensure access that is consistent with the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g).

SEC. 40. It is the intent of the Legislature that for the 2008-09 fiscal year, after funding cost-of-living and

enrollment growth adjustments for kindergarten and grades 1 to 12, inclusive, education programs operated in the 2007-08 fiscal year, a priority for the allocation of any additional funds available for kindergarten and grades 1 to 12, inclusive, within the Proposition 98 minimum guarantee shall be to fund revenue limit equalization in a manner consistent with *Section 42238.48 of the Education Code*.

Stats 2009-2010 5th Ex Sess ch 2 provides:

**SECTION 1.** It is the intent of the Legislature to implement education reforms to dramatically improve the achievement of California's students. These reforms will ensure that California is positioned to be successful in the federal Race to the Top competition through the following reforms:

(a) Authorize the Governor, Superintendent of Public Instruction, and the State Board of Education to jointly develop a plan with local educational agencies for submission in the Race to the Top grant competition and provide participating local education agencies with the flexibility they need to implement activities in the state plan.

(b) Recruit, prepare, develop, retain, train for continual improvement, and reward effective teachers and principals, especially in the state's lowest performing schools, and provide alternative routes to certification for those who want to teach science, technology, engineering, and math subjects in order to attract professionals with hands-on experience in the classroom.

(c) Ensure that the rigor of the state's reading, writing, and mathematics academic content standards, curricula, and assessments is maintained so that all high school graduates are prepared for college and careers by establishing a process to adopt new standards based on the Common Core State Standards Initiative.

(d) Create robust data systems linking prekindergarten, K-12, higher education and workforce data to measure student success, improve instruction and student learning, and inform teachers, principals, students, policymakers, and the public of school performance.

(e) Turn around the state's persistently lowest-achieving schools by identifying them, presenting them with rigorous and comprehensive alternative models for reform, support the school-level cultural change that is necessary for successful school reform, and eliminate barriers to school turnarounds.

**SEC. 24.** This act shall become operative only if Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

#### **Editor's Notes**

Senate Bill 4 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 3 of that session, effective April 13, 2010.

#### **Hierarchy Notes:**

Tit. 2, Div. 4, Pt. 33, Ch. 5 Note



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Chapter 2. Compulsory Education Law  
Article 10. Open Enrollment Act

**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 48353 (2010)*

**§ 48353. Adoption of emergency regulations**

The state board shall adopt emergency regulations to implement this article.

**HISTORY:**

Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4XXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 3 provides:

SEC. 4. This act shall become operative only if Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 2 of that session, effective April 13, 2010.

**Hierarchy Notes:**

Tit. 2, Div. 4 Note

Tit. 2, Div. 4, Pt. 27, Ch. 2 Note

Tit. 2, Div. 4, Pt. 27, Ch. 2, Art. 10 Note



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**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 48354 (2010)*

**§ 48354. Option to transfer**

(a) The parent of a pupil enrolled in a low-achieving school may submit an application for the pupil to attend a school in a school district of enrollment pursuant to this article.

(b)

(1) Consistent with the requirements of Section 1116(b)(1)(E) of the federal Elementary and Secondary Education Act of 2001 (*20 U.S.C. Sec. 6301 et seq.*), on or before the first day of the school year, or, if later, on the date the notice of program improvement, corrective action, or restructuring status is required to be provided under federal law the district of residence shall provide the parents and guardians of all pupils enrolled in a school determined in subdivision (a) of Section 48352 with notice of the option to transfer to another public school served by the school district of residence or another school district.

(2) An application requesting a transfer pursuant to this article shall be submitted by the parent of a pupil to the school district of enrollment prior to January 1 of the school year preceding the school year for which the pupil is requesting to transfer. The school district of enrollment may waive the deadline specified in this paragraph.

(3) The application deadline specified in paragraph (2) does not apply to an application requesting a transfer if the parent, with whom the pupil resides, is enlisted in the military and was relocated by the military within 90 days prior to submitting the application.

(4) The application may request enrollment of the pupil in a specific school or program within the school district of

enrollment.

(5) A pupil may enroll in a school in the school district of enrollment in the school year immediately following the approval of his or her application.

(6) In order to provide priority enrollment opportunities for pupils residing in the school district, a school district of enrollment shall establish a period of time for resident pupil enrollment prior to accepting transfer applications pursuant to this article.

**HISTORY:**

Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4XXXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 3 provides:

SEC. 4. This act shall become operative only if Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 2 of that session, effective April 13, 2010.

**Hierarchy Notes:**

Tit. 2, Div. 4 Note

Tit. 2, Div. 4, Pt. 27, Ch. 2 Note

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Chapter 2. Compulsory Education Law  
Article 10. Open Enrollment Act

**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 48355 (2010)*

**§ 48355. Prohibition of transfer; Communications regarding open enrollment options**

(a) The school district of residence of a pupil or a school district of enrollment to which a pupil has applied to attend may prohibit the transfer of the pupil pursuant to this article or limit the number of pupils who transfer pursuant to this article if the governing board of the district determines that the transfer would negatively impact either of the following:

(1) A court-ordered or voluntary desegregation plan of the district.

(2) The racial and ethnic balance of the district, provided that any policy adopted pursuant to this paragraph is consistent with federal and state law.

(b) A school district of residence shall not adopt any other policies that in any way prevent or discourage pupils from applying for a transfer to a school district of enrollment.

(c) Communications to parents or guardians by districts regarding the open enrollment options provided by this article shall be factually accurate and not target individual parents or guardians or residential neighborhoods on the basis of a child's actual or perceived academic or athletic performance or any other personal characteristic.

**HISTORY:**

Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4XXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 3 provides:

SEC. 4. This act shall become operative only if Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 2 of that session, effective April 13, 2010.

**Hierarchy Notes:**

Tit. 2, Div. 4 Note

Tit. 2, Div. 4, Pt. 27, Ch. 2 Note

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**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 48356 (2010)*

**§ 48356. Adoption of written standards; Consideration of applications; Enrollment in a school with higher Academic Performance Index; Priority; Displacement prohibited**

(a) A school district of enrollment may adopt specific, written standards for acceptance and rejection of applications pursuant to this article. The standards may include consideration of the capacity of a program, class, grade level, school building, or adverse financial impact. Subject to subdivision (b), and except as necessary in accordance with Section 48355, the standards shall not include consideration of a pupil's previous academic achievement, physical condition, proficiency in the English language, family income, or any of the individual characteristics set forth in Section 200.

(b) In considering an application pursuant to this article, a nonresident school district may apply its usual requirements for admission to a magnet school or a program designed to serve gifted and talented pupils.

(c) Subject to the rules and standards that apply to pupils who reside in the school district of enrollment, a resident pupil who is enrolled in one of the district's schools pursuant to this article shall not be required to submit an application in order to remain enrolled.

(d) A school district of enrollment shall ensure that pupils enrolled pursuant to standards adopted pursuant to this section are enrolled in a school with a higher Academic Performance Index than the school in which the pupil was previously enrolled and are selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, or any of the other characteristics set forth in subdivision (a), except that pupils applying for a transfer pursuant to this article shall be assigned priority for approval as follows:

(1) First priority for the siblings of children who already attend the desired school.

(2) Second priority for pupils transferring from a program improvement school ranked in decile 1 on the Academic Performance Index determined pursuant to subdivision (a) of Section 48352.

(3) If the number of pupils who request a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order identified in paragraphs (1) and (2) to select pupils at random until all of the available spaces are filled.

(e) The initial application of a pupil for transfer to a school within a school district of enrollment shall not be approved if the transfer would require the displacement from the desired school of any other pupil who resides within the attendance area of that school or is currently enrolled in that school.

(f) A pupil approved for a transfer to a school district of enrollment pursuant to this article shall be deemed to have fulfilled the requirements of Section 48204.

**HISTORY:**

Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4XXXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 3 provides:

SEC. 4. This act shall become operative only if Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 2 of that session, effective April 13, 2010.

**Hierarchy Notes:**

Tit. 2, Div. 4 Note

Tit. 2, Div. 4, Pt. 27, Ch. 2 Note

Tit. 2, Div. 4, Pt. 27, Ch. 2, Art. 10 Note



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EDUCATION CODE  
Title 2. ELEMENTARY AND SECONDARY EDUCATION  
Division 4. Instruction and Services  
Part 27. Pupils  
Chapter 2. Compulsory Education Law  
Article 10. Open Enrollment Act

**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 48357 (2010)*

**§ 48357. Notification**

Within 60 days of receiving an application pursuant to Section 48354, a school district of enrollment shall notify the applicant parent and the school district of residence in writing whether the application has been accepted or rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection.

**HISTORY:**

Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4XXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 3 provides:

SEC. 4. This act shall become operative only if Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

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**Hierarchy Notes:**

Tit. 2, Div. 4 Note

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**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 48358 (2010)*

**§ 48358. Acceptance of credits**

A school district of enrollment that enrolls a pupil pursuant to this article shall accept credits toward graduation that were awarded to the pupil by another school district and shall graduate the pupil if the pupil meets the graduation requirements of the school district of enrollment.

**HISTORY:**

Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4XXXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 3 provides:

SEC. 4. This act shall become operative only if Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

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Chapter 2. Compulsory Education Law  
Article 10. Open Enrollment Act

**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 48359 (2010)*

**§ 48359. Accounting of requests for alternative attendance; Reporting**

(a) Each school district is encouraged to keep an accounting of all requests made for alternative attendance pursuant to this article and records of all disposition of those requests that may include, but are not limited to, all of the following:

(1) The number of requests granted, denied, or withdrawn. In the case of denied requests, the records may indicate the reasons for the denials.

(2) The number of pupils who transfer out of the district.

(3) The number of pupils who transfer into the district.

(4) The race, ethnicity, gender, self-reported socioeconomic status, and the school district of residence of each of the pupils described in paragraphs (2) and (3).

(5) The number of pupils described in paragraphs (2) and (3) who are classified as English learners or identified as individuals with exceptional needs, as defined in Section 56026.

(b) The information maintained pursuant to subdivision (a) may be reported to the governing board of the school district at a regularly scheduled meeting of the governing board.

**HISTORY:**

Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4XXXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 3 provides:

SEC. 4. This act shall become operative only if Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 2 of that session, effective April 13, 2010.

**Hierarchy Notes:**

Tit. 2, Div. 4 Note

Tit. 2, Div. 4, Pt. 27, Ch. 2 Note

Tit. 2, Div. 4, Pt. 27, Ch. 2, Art. 10 Note



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Chapter 2. Compulsory Education Law  
Article 10. Open Enrollment Act

**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 48359.5 (2010)*

**§ 48359.5. Apportionment of state funds for average daily attendance for basic aid districts**

For a school district of enrollment that is a basic aid district, the apportionment of state funds for any average daily attendance credited pursuant to this article shall be 70 percent of the district revenue limit that would have been apportioned to the school district of residence. Apportionment of these funds shall begin in the second consecutive year of enrollment, and continue annually until the pupil graduates from, or is no longer enrolled in, the school district of enrollment. For purposes of this section, "basic aid school district" means a school district that does not receive an apportionment of state funds pursuant to subdivision (h) of Section 42238 for any fiscal year in which this subdivision may apply.

**HISTORY:**

Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4XXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 3 provides:

SEC. 4. This act shall become operative only if Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 2 of that session, effective April 13, 2010.

**Hierarchy Notes:**

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Chapter 2. Compulsory Education Law  
Article 10. Open Enrollment Act

**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 48360 (2010)*

**§ 48360. Independent evaluation of open enrollment program**

(a) From federal funds appropriated for this purpose, the Superintendent shall contract for an independent evaluation of the open enrollment program operated pursuant to this article. The evaluation shall, at a minimum, consider all of the following:

(1) The levels of, and changes in, academic achievement of pupils in school districts of residence and school districts of enrollment for pupils who do and do not elect to enroll in a school district of enrollment.

(2) Fiscal and programmatic effects on school districts of residence and school districts of enrollment.

(3) Numbers and demographic and socioeconomic characteristics of pupils who do and do not elect to enroll in a school district of enrollment.

(b) The Superintendent shall provide a final evaluation report to the Legislature, Governor, and state board on or before October 1, 2014.

**HISTORY:**

Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4XXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 3 provides:

SEC. 4. This act shall become operative only if Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

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**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 48361 (2010)*

**§ 48361. Exercise of discretion**

No exercise of discretion by a district of enrollment in its administration of this article shall be overturned absent a finding as designated by a court of competent jurisdiction that the district governing board acted in an arbitrary and capricious manner.

**HISTORY:**

Added Stats 2009-2010 5th Ex Sess ch 3 § 1 (SB 4XXXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 3 provides:

SEC. 4. This act shall become operative only if Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 2 of that session, effective April

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**Hierarchy Notes:**

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Tit. 2, Div. 4, Pt. 27, Ch. 2, Art. 10 Note





LEXSTAT CAL ED CODE 53300

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 Division 4. Instruction and Services  
 Part 28. General Instructional Programs  
 Chapter 18. Race to the Top  
 Article 3. Parent Empowerment

**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 53300 (2010)*

**§ 53300. Parental petition for intervention in school subject to corrective action; Action by local educational agency**

For any school not identified as a persistently lowest-achieving school under Section 53201 which, after one full school year, is subject to corrective action pursuant to paragraph (7) of Section 1116(b) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and continues to fail to make adequate yearly progress, and has an Academic Performance Index score of less than 800, and where at least one-half of the parents or legal guardians of pupils attending the school, or a combination of at least one-half of the parents or legal guardians of pupils attending the school and the elementary or middle schools that normally matriculate into a middle or high school, as applicable, sign a petition requesting the local educational agency to implement one or more of the four interventions identified pursuant to paragraphs (1) to (4), inclusive of subdivision (a) of Section 53202 or the federally mandated alternative governance arrangement pursuant to Section 1116(b)(8)(B)(v) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.), the local educational agency shall implement the option requested by the parents unless, in a regularly scheduled public hearing, the local educational agency makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options described in this section it will implement in the subsequent school year consistent with requirements specified in federal regulations and guidelines for schools subject to restructuring under Section 1116(b)(8) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and regulations and guidelines for the four interventions.

**HISTORY:**

Added Stats 2009-2010 5th Ex Sess ch 3 § 2 (SB 4XXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 3 provides:

SEC. 4. This act shall become operative only if Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 2 of that session, effective April 13, 2010.

**Hierarchy Notes:**

Tit. 2, Div. 4, Pt. 28, Ch. 18 Note



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Chapter 18. Race to the Top  
Article 3. Parent Empowerment

**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 53301 (2010)*

**§ 53301. Notification of Superintendent and state board**

(a) The local educational agency shall notify the Superintendent and the state board upon receipt of a petition under Section 53300 and upon its final disposition of that petition.

(b) If the local educational agency indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the local educational agency shall notify the Superintendent and the state board that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in the federally mandated state plan under Section 1111(b)(2) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.).

**HISTORY:**

Added Stats 2009-2010 5th Ex Sess ch 3 § 2 (SB 4XXXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 3 provides:

SEC. 4. This act shall become operative only if Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

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Chapter 18. Race to the Top  
Article 3. Parent Empowerment

**GO TO CALIFORNIA CODES ARCHIVE DIRECTORY**

*Cal Ed Code § 53303 (2010)*

**§ 53303. Request must be to improve academic achievement or pupil safety**

A local educational agency shall not be required to implement the option requested by the parent petition if the request is for reasons other than improving academic achievement or pupil safety.

**HISTORY:**

Added Stats 2009-2010 5th Ex Sess ch 3 § 2 (SB 4XXXXX), effective April 13, 2010.

**NOTES:**

**Note**

Stats 2009-2010 5th Ex Sess ch 3 provides:

SEC. 4. This act shall become operative only if Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 is also enacted and becomes operative.

**Editor's Notes**

Senate Bill 1 of the Fifth Extraordinary Session of 2009-10 was enacted as chapter 2 of that session, effective April 13, 2010.

**Hierarchy Notes:**

Tit. 2, Div. 4, Pt. 28, Ch. 18 Note



LEXSTAT 5 CCR 4702

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TITLE 5. EDUCATION  
DIVISION 1. CALIFORNIA DEPARTMENT OF EDUCATION  
CHAPTER 5.2. OPEN ENROLLMENT ACT  
SUBCHAPTER 1. OPEN ENROLLMENT ACT  
ARTICLE 1. GENERAL PROVISIONS

5 CCR 4702 (2010)

§ 4702. Application for Transfer Pursuant to the Open Enrollment Act

(a) The district of residence shall notify the parent(s) or guardian(s) of each pupil enrolled in a school included on the most recent Open Enrollment list of the option to transfer. This notice shall be provided on the first day of instruction; if the district has not been notified of whether its school(s) is on the list, the notification shall be provided no later than September 15.

(b) A pupil who transfers to a school pursuant to the Open Enrollment Act and is currently enrolled in that school shall not be required to reapply for enrollment in that school, regardless of whether the pupil's school of residence remains on the list of 1,000 Open Enrollment schools.

AUTHORITY:

Note: Authority cited: *Section 48353, Education Code*. Reference: *Sections 48354, 48355 and 48356, Education Code*.

HISTORY:

1. New section filed 8-2-2010 as an emergency; operative 8-2-2010 (Register 2010, No. 32). A Certificate of Compliance must be transmitted to OAL by 1-31-2011 or emergency language will be repealed by operation of law on the following day.

## COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300  
SACRAMENTO, CA 95814  
PHONE: (916) 323-3562  
FAX: (916) 445-0278  
E-mail: csminfo@csm.ca.gov



August 5, 2013

Ms. Carol Bingham  
California Office of Education  
Fiscal Policy Division  
1430 N Street, Suite 5602  
Sacramento, CA 95814

*And Affected State Agencies and Interested Parties (See Mailing List)*

Re: **Request for Additional Briefing**  
*Race to the Top*, 10-TC-06  
Education Code Sections 53100 et al.  
Statutes 2010, Chapter 2 (SBX5 1); and Statutes 2010 Chapter 3 (SBX5 4)  
Twin Rivers Unified School District, Claimant

Dear Ms. Bingham:

Commission staff is reviewing the above entitled test claim. To complete analysis of this test claim, Commission staff is requesting written briefing on the specific use of grant funds provided through No Child Left Behind and the federal Race to the Top funding sources. Understanding the interplay between designated state, local, and federal funding sources for this program, will be extremely helpful in preparing the draft staff analysis for this test claim. In particular, staff needs to understand whether these grant funds are sufficient to fully fund the costs of the *Race to the Top* program, and, whether these funds are required to be applied to the program or authorized to be applied to the program. Please provide citations to relevant law, including budget bill provisions, where possible.

#### Written Comments

Written comments on this issue may be filed by **September 3, 2013**. You are advised that the Commission's regulations require comments filed with the Commission to be simultaneously served on other interested parties on the mailing list, and to be accompanied by a proof of service on those parties. However, this requirement may also be satisfied by electronically filing your documents. Please see <http://www.csm.ca.gov/dropbox.shtml> on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.2.)

Please contact Giny Chandler at (916) 323-3562 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey".

Heather Halsey  
Executive Director



## COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300  
 SACRAMENTO, CA 95814  
 PHONE: (916) 323-3562  
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February 6, 2014

Mr. Arthur M. Palkowitz  
 Stutz Artiano Shinoff & Holtz  
 2488 Historic Decatur Road, Suite 200  
 San Diego, CA 92106

*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

Re: **Draft Staff Analysis and Proposed Statement of Decision, Schedule for Comments, and Notice of Hearing**  
*Race to the Top*, 10-TC-06  
 Education Code Sections 48353 et al.  
 Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapters 2 and 3, SBX5 1 and SBX5 4 et al.  
 California Code of Regulations, Title 5, Section 4702 (Register 2010, No. 32)  
 Twin Rivers Unified School District, Claimant

Dear Mr. Palkowitz:

The draft staff analysis and proposed statement of decision for the above-named matter is enclosed for your review and comment.

### Written Comments

Written comments may be filed on the draft staff analysis by **February 27, 2014**. You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Please see <http://www.csm.ca.gov/dropbox.shtml> on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.2.)

If you would like to request an extension of time to file comments, please refer to section 1183.01(c)(1) of the Commission's regulations.

### Hearing

This matter is set for hearing on **Friday, March 28, 2014**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The final staff analysis will be issued on or about March 14, 2014. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01(c)(2) of the Commission's regulations.

Please contact Giny Chandler at (916) 323-3562 if you have any questions.

Sincerely,

Heather Halsey  
 Executive Director

**ITEM \_\_\_\_**  
**TEST CLAIM**  
**DRAFT STAFF ANALYSIS**  
**AND**  
**PROPOSED STATEMENT OF DECISION**

Education Code Section 60601, as added and amended by Statutes 1995, Chapter 975, Section 1 (AB 265); Statutes 1996, Chapter 69, Section 1 (SB 430); Statutes 2001, Chapter 722, Section 2 (SB 233); Statutes 2004, Chapter 233, Section 1 (SB 1448); Statutes 2007, Chapter 174, Section 11 (SB 80); and Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapter 2, Section 9 (SBX5 1);

Education Code Sections 48353, 48354, 48355, 48356, 48357, 48358, 48359, 48359.5, 48360 and 48361, as added by Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapter 3, Section 1 (SBX5 4);

Education Code Sections 53100, 53101, 53200, 53201, 53201.5, 53202 and 53203, as added by Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapter 2, Section 8 (SBX5 1);

Education Code Sections 53300, 53301 and 53303, as added by Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapter 3, Section 2 (SBX5 4);

California Code of Regulations, Title 5, Section 4702 (Register 2010, No. 32)

Twin Rivers Unified School District, Claimant

---

**Executive Summary**

**Background**

This test claim addresses state statutes enacted by the Legislature in 2009 and 2010 to make California competitive in the federal Race to the Top (RTTT) education grant program.

- In February 2009, Congress enacted the American Recovery and Reinvestment Act (ARRA), which provided substantial one-time funds to help struggling states and created competitive grant programs designed to spur education and economic reform. One of the programs created as part of ARRA was the Race to the Top (RTTT) competitive grant program in which states competed for approximately \$4.35 billion in federal funds.

The test claim statutes added or amended the programs and code sections described below.

1) *Race to the Top*

Race to the Top<sup>1</sup> establishes a process by which, through a memorandum of understanding, the state and local educational agencies that choose to participate in the application for RTTT grant funds, target the RTTT criteria by focusing particularly on persistently low-achieving schools. The state and participating schools, who have signed a memorandum of understanding, are required to develop a plan to address how federal funds from both RTTT and other federal funding sources will provide resources for those identified schools.<sup>2</sup> The plan may address professional development, technical assistance, and partnership with other schools that have successfully transitioned from low performing to higher performing schools.<sup>3</sup>

The state is required to identify schools that meet the statutory definition of persistently lowest-achieving schools.<sup>4</sup>

Once a school is identified by the state as a persistently lowest-achieving school, the governing school district is required to hold at least two public hearings to notify staff, parents, and the community of the designation and to seek input regarding the options for implementing one of the four intervention models described in Appendix C of the federal RTTT legislation for turning around the school. These models include the following:

- Turn around model. This includes replacing the principal, screening all staff and rehiring no more than 50 percent of the existing staff and adopting a new governance structure.
- Restart model. This model includes converting to a charter school or hiring an education management company to run the school.
- School closure. This model envisions closing the school down and sending the students to a higher-achieving school.
- Transformation model. This model involves specific interventions including the following: developing and increasing teacher and school leader effectiveness by replacing the principal and using rigorous and equitable evaluation systems for teachers and principals; identifying and rewarding school leaders, teachers, and staff, who have increased student achievement and graduation rates, and identifying and removing those who have not improved their professional practice; providing staff with professional development; and implementing strategies for financial incentives, increased opportunities for promotion and career growth, and retaining staff with the skills necessary to meet the needs of the students.<sup>5</sup>

<sup>1</sup> Codified in Education Code sections 53100-53203.

<sup>2</sup> Education Code section 53101.

<sup>3</sup> Education Code section 53101(b).

<sup>4</sup> Education Code section 53201.

<sup>5</sup> Education Code section 53202.

The district is then required to select an intervention model and implement that model for an identified persistently lowest-achieving school.<sup>6</sup>

2) Parent Empowerment Act

The Parent Empowerment Act<sup>7</sup> allows parents to petition a school to implement one of the RTTT intervention models described above to improve academic achievement or pupil safety.<sup>8</sup> Parents may file a petition for those schools that are not identified as persistently lowest-achieving, but are subject to corrective action under No Child Left Behind (NCLB), fail to make adequate yearly progress, and have an Academic Performance Index (API) score of less than 800.<sup>9</sup>

Education Code section 53300 requires a school, following a receipt of a petition filed by parents, to implement the intervention option requested by the parents unless, in a regularly scheduled public hearing of the school district, the school district makes a finding in writing stating the reason it cannot implement the specific recommended option and, instead, designates in writing which of the other intervention options it will implement in the subsequent school year that has substantial promise of enabling the school to make adequate yearly progress. The school district is also required to notify the Superintendent of Public Instruction (SPI) and State Board of Education (SBE) upon receipt of a petition and the district's final disposition of the matter.<sup>10</sup>

3) Open Enrollment Act

The Open Enrollment Act<sup>11</sup> is intended to improve the academic achievement of pupils and to enhance parental choice in education by providing pupils enrolled in low-achieving schools with additional options to enroll in higher-achieving public schools throughout the state regardless of the pupil's residence.<sup>12</sup> The Open Enrollment Act and title 5, California Code of Regulations, section 4702 impose specified notice, enrollment and related requirements on school districts of residence and school districts of enrollment and grant authority to the districts to take specified actions in furtherance of the program.<sup>13</sup>

4) Education Code section 60601, relating to the STAR test

Former Section 60601, as pled in this test claim, sets the inoperative and repeal date for the Leroy Greene California Assessment of Academic Achievement Act, which created the school STAR

<sup>6</sup> Education Code section 53202(a).

<sup>7</sup> Codified in Education Code sections 53300-53303.

<sup>8</sup> Education Code section 53300.

<sup>9</sup> Education Code section 53300.

<sup>10</sup> Education Code section 53301.

<sup>11</sup> Codified in Education Code sections 48350-48361 and implemented by, Title 5, California Code of Regulations, section 4702.

<sup>12</sup> Education Code section 48354.

<sup>13</sup> Education Code sections 48354-48359 and Title 5, California Code of Regulations, section 4702.

testing program. As amended in 2010, Section 60601 provided that the STAR testing program shall become inoperative on July 1, 2014, and as of January 1, 2015, is repealed unless a later enacted statute, enacted before January 1, 2015, deletes or extends the dates upon which it becomes inoperative and is repealed. A later enacted statute, Statutes 2013, chapter 489, deleted the provisions establishing the STAR program and replaced them with provisions establishing the Measurement of Academic Performance and Progress (MAPP) program, commencing in the 2013/2014 school year. Statutes 2013, chapter 489 amended section 60601 to provide an inactive date of July 1, 2020 and a repeal date of July 1, 2021.

### **Procedural History**

Claimant, Twin Rivers Unified School District, filed the test claim on November 23, 2010.<sup>14</sup> On December 22, 2010, Commission on State Mandates (Commission) staff deemed the filing complete and numbered it 10-TC-06. The state has not filed any comments on this test claim. On August 5, 2013, a request for additional information was issued regarding the grant funding that may be applicable to the Race to the Top program. No comments were filed on this request.

### **Commission Responsibilities**

Under article XIII B, section 6 of the California Constitution, local agencies, including school districts, are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local government to be eligible for reimbursement, one or more similarly situated local agencies or school districts must file a test claim with the Commission. “Test claim” means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions: all members of the class have the opportunity to participate in the test claim process, and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6. In making its decisions, the Commission cannot apply article XIII B as an equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.

### **Claims**

The following chart provides a summary of the claims and issues raised and staff’s recommendation.

<sup>14</sup> Based on the filing date of this test claim and pursuant to Government Code section 17557(e), the potential period of reimbursement for this claim begins July 1, 2009. However, because the effective date of the statutes over which the Commission has jurisdiction is April 12, 2010, any reimbursement requirement under this test claim would not begin until April 12, 2010.

Subject	Description	Staff Recommendation
<p>Education Code section 60601, as added and amended by Statutes 1995, chapter 975, section 1 (AB 265); Statutes 1996, chapter 69, section 1 (SB 430); Statutes 2001, chapter 722, section 2 (SB 233); Statutes 2004, chapter 233, section 1 (SB 1448); Statutes 2007, chapter 174, section 11 (SB 80); Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, chapter 2, section 9 (SBX5 1)</p>	<p>Education Code section 60601 sets the inoperative and repeal date for the Leroy Greene California Assessment of Academic Achievement Act, which created the school STAR testing program. As last amended in 2010, the statute provides that the STAR testing program shall become inoperative on July 1, 2014, and as of January 1, 2015, is repealed unless a later enacted statute, enacted before January 1, 2015, deletes or extends the dates upon which it becomes inoperative and is repealed.</p>	<p><b><u>Deny</u></b> – The Commission does not have jurisdiction over Education Code section 60601, as enacted in 1995 and amended from 1996 through 2007 because these statutes were the subject of a prior test claim, <i>Standardized Testing and Reporting (STAR) II and III</i> (05-TC-02, 05-TC-03, and 08-TC-06), and denied because, as amended by Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, chapter 2, this code section sets the date by which the chapter governing the STAR program will become inoperative and then repealed but does not impose any mandated duties on school districts.</p>
<p>Education Code sections 53100, 53101, 53200, 53201, 53201.5, 53202 and 53203, as added by Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, chapter 2, section 8 (SBX5 1)</p>	<p>These sections govern the state’s Race to the Top legislation. These statutes authorize the state to enter into a memorandum of understanding with a local educational agency to apply for grant funds under the federal RTTT competitive grant fund program. These sections further provide that “participating local educational agencies” shall enter into the memorandum of understanding and obtain signatures from as many as possible of each participating agency’s superintendent of schools, president of the local government boards, and leaders of any local collective bargaining unit for teachers. They also require the state to develop a plan with participating school districts to submit as part of the RTTT application process to</p>	<p><b><u>Partially Approve</u></b> – Education Code section 53202(a) and (b) imposes a state-mandated new program or higher level of service, beginning April 12, 2010, on school districts that receive notice that a school or schools within the district have been identified by the SPI as persistently lowest-achieving to (1) hold at least two public hearings for each school identified to seek input from staff, parents, and the community regarding</p>

	<p>demonstrate how funds from the federal RTTT program will be used.</p> <p>In addition, these sections require the SPI to establish a list of persistently lowest-achieving schools. School districts on the list are required to hold at least two public hearings for each school identified as a persistently lowest-achieving school to notify staff, parents, and the community of the designation and to seek input from staff, parents, and the community regarding the option or options for interventions most suitable for the school or schools in its jurisdiction. The district is required to select one of the four interventions for turning around the identified persistently lowest-achieving school or schools as described in Appendix C of the of the federal RTTT legislation.</p>	<p>the option or options for intervention; to conduct a meeting of the governing board to select one of the four interventions for turning around the identified persistently lowest-achieving school or schools as described in Appendix C of the federal legislation; and (2) implement one of the four intervention models for turning around the identified persistently lowest-achieving school or schools.</p> <p>However, sections 53100, 53101, 53200, 53201, 53201.5 and 53203 do not impose any state-mandated activities on school districts.</p>
<p>Education Code sections 53300, 53301 and 53303, as added by Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, chapter 3, section 2 (SBX5 4)</p>	<p>Education Code sections 53300-53301 authorize parents of students in a school not identified as persistently lowest-achieving, but subject to corrective action under Title I of NCLB, and which fails to make adequate yearly progress, and has an API score of less than 800, to petition the governing school district to implement one of the four intervention models described in Education Code section 53202. The school district is generally required to implement the option requested; however, Education Code section 53303 limits this requirement to petitions that are filed for the purpose of improving academic achievement or pupil safety.</p>	<p><b><i>Partially Approve</i></b> – Education Code sections 53300 and 53301 mandate a new program or higher level of service on school districts, beginning April 12, 2010, to perform the following activities: upon receipt of a petition, signed by the specified number of parents: (1) implement the intervention model requested by parents unless, in a regularly scheduled public hearing, the school district makes a finding in writing stating the reason it cannot implement the specific</p>

		<p>recommended option and instead designates in writing which of the other options it will implement in the subsequent school year consistent with the requirements specified in federal regulations and guidelines; (2) notify the SPI and SBE of the receipt of a petition and the final disposition of the petition. If the school district indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the school district shall notify the SPI and SBE that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in NCLB, 20 U.S.C. section 6301 et seq. Section 53303 limits the duties imposed by sections 53300 and 53301 and does not require the performance of any activities by a school district. Therefore, it does not impose a new program or higher level of service.</p>
<p>Education Code sections 48353, 48354, 48355, 48356, 48357, 48358, 48359,</p>	<p>These code sections and regulations establish the Open Enrollment Act, which requires the SPI to identify schools as low-achieving by creating a list of 1000 schools ranked by increasing API with the same</p>	<p><b><u>Partially Approve</u></b> The following activities required by Education Code sections 48354, 48356, and 48357 and</p>



<p>48359.5, 48360 and 48361, as added by Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, chapter 3, section 1 (SBX5 4);</p> <p>California Code of Regulations, title 5, section 4702 (Register 2010, Nos. 32 and 49)</p>	<p>ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-2009 school year. A school district that has been identified on the Open Enrollment List is required to notify parents of the option for a student to transfer to a higher-achieving school outside their residence to improve pupil achievement in accordance with the regulations and guidelines for the federal RTTT fund and to enhance parental choice in education.</p>	<p>California Code of Regulations, title 5, section 4702, constitute state-mandated new programs or higher levels of service on school districts beginning April 12, 2010: (1) the school district of residence that receives notice that one or more of its schools are low-achieving and on the list created by the SPI, shall notify the parent(s) or guardian(s) of each pupil enrolled in a school included on the most recent Open Enrollment List of the option to transfer to another public school served by the district of residence or another school district; (2) upon receipt of a transfer application, the school district of enrollment shall ensure that pupils who transfer pursuant to the Open Enrollment Act are enrolled in a school with a higher API than the school in which the pupil was previously enrolled, and are selected through a random, nonbiased process; within 60 days of receiving an application from a parent or guardian for transfer, the school district of enrollment shall notify the applicant parent and the school district of residence in writing</p>
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		<p>whether the application has been accepted or rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection.</p> <p>Activities performed pursuant to sections 48353, 48355, 48358, 48359, 48359.5, 48360 and 48361 and any other activities pled under the Open Enrollment Act are either required of the state or are performed at the discretion of the school district, or do not impose a new program or higher level of service.</p>
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**Analysis**

**A. The Commission does not have jurisdiction over Education Code section 60601, as added and amended from 1995 through 2007.**

The claimant has pled Education Code section 60601, as originally enacted in 1995 and amended in 1996, 2001, 2004, 2007, and in 2009-2010. The Commission does not have jurisdiction over Education Code section 60601, as enacted in 1995 and amended from 1996 through 2007 because these statutes were the subject of a prior test claim, *Standardized Testing and Reporting (STAR) II and III*, 05-TC-02, 05-TC-03, and 08-TC-06, and denied because the code section does not impose any mandated duties on school districts. A Commission decision that becomes final and has not been set aside by a court cannot be reconsidered by the Commission.<sup>15</sup> In addition, the statute of limitations for filing a test claim on Education Code section 60601, as added and amended from 1995 to 2007, has expired pursuant to Government Code section 17551(c).

**B. Some of the provisions of the remaining test claim statutes and regulation impose a state-mandated new program or higher level of service on school districts.**

**1. Education Code section 60601 (as amended by Statutes 2009-2010, chapter 2) does not impose a state-mandated program on school districts.**

Education Code section 60601 was amended by Statutes 2009-2010, chapter 2, effective April 12, 2010. That amendment set the date by which the chapter governing the STAR program would

<sup>15</sup> *California School Boards Assoc. v. State of California* (2009) 171 Cal.App.4th 1183, 1200.

have become inoperative and then repealed. By its plain language, Education Code section 60601 does not impose any state-mandated activities on school districts.

**2. Education Code section 53202 (a) and (b) imposes a state-mandated new program or higher level of service on school districts, however, the remaining code sections governing the state’s Race to the Top application and implementation activities do not impose a new program or higher level of service.**

Commission staff finds that the Education Code sections 53100 and 53101, governing the state’s Race to the Top application, do not impose any state-mandated duties on school districts. These sections authorize the state to enter into a memorandum of understanding (MOU) with a local educational agency in order to apply for grant funds under the federal RTTT competitive grant fund program. They further provide that “participating local educational agencies” shall enter into the memorandum of understanding and obtain signatures from as many as possible of each participating agency’s superintendent of schools, president of the local government boards, and leaders of any local collective bargaining unit for teachers. In addition, the state is required to develop a plan to submit as part of the RTTT application process to demonstrate how funds from the federal RTTT program will be used to provide resources to the low-achieving and persistently lowest-achieving schools that can be used for professional development, technical assistance, and partnering with schools that have successfully transitioned from low to higher-performing status. School districts that have voluntarily agreed to participate in the MOU and federal RTTT application process are requested to collaborate in the preparation of the plan. In addition, the state is required to contract for an independent evaluation of the plan submitted in the application for the federal competitive grant award<sup>16</sup>. These code sections do not impose any state-mandated activities on school districts. The plain language creates a voluntary program; school districts “may” enter into an MOU with the state to apply for and participate in the federal RTTT grant program. If a school district decides to participate, the district is required to gather the signatures and is encouraged to participate in the development of the state’s plan. Those activities, however, are triggered by the district’s voluntary decision to participate in the program. Pursuant to the court’s decision in *Department of Finance v. Commission on State Mandates (Kern High School Dist.)*, downstream requirements triggered by local discretionary decisions are not eligible for reimbursement.<sup>17</sup>

Education Code sections 53200-53203 are informally titled “Intervening in the Persistently Lowest-Achieving Schools” and describe the interventions required for persistently lowest-achieving schools identified by the state. Sections 53200, 53201, and 53201.5, impose requirements on the SPI to establish a list of schools persistently lowest-achieving schools. “Persistently lowest-achieving schools” are defined to include the following schools:

<sup>16</sup> Education Code section 53102, which is not pled in this test claim.

<sup>17</sup> *Department of Finance v. Commission on State Mandates (Kern)* (2003) 30 Cal.4th 727; *Department of Finance v. Commission on State Mandates (POBRA)* (2009) 170 Cal.App.4th 1355.

- The lowest five percent of the Title 1 schools in improvement, corrective action, or restructuring when measured by the academic achievement of pupils in reading/language arts and mathematics;
- Secondary schools that do not receive Title 1 funds, but whose academic achievement of pupils in reading/language arts and mathematics is in the lowest five percent;
- Any high school that has a graduation rate that is less than 60 percent in each of the previous three years; and
- Any school determined to be included in the list by the SPI and State Board of Education that is a county community school, a juvenile court school, or a school that provides educational services exclusively for special education students.

Education Code sections 53200, 53201, and 53201.5 impose duties on the state, but do not impose any state-mandated activities on school districts.

Commission staff finds, however, that Education Code section 53202(a) and (b) (Stats. 2009-2010, 5th Ex. Sess., c. 2 (SBX5 1), § 8) imposes a state-mandated new program or higher level of service, beginning April 12, 2010, on school districts that receive notice that a school or schools within the district have been identified by the SPI as persistently lowest-achieving pursuant to section 53200(b), for the following activities:

- Hold at least two public hearings for each school identified as a persistently lowest-achieving school to notify staff, parents, and the community of the designation and to seek input from staff, parents, and the community regarding the option or options most suitable for the applicable school or schools in its jurisdiction. At least one of the public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest-achieving.
- Conduct a meeting of the governing board to select one of the four interventions for turning around the identified persistently lowest-achieving school or schools as described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009:
  - (1) The turnaround model.
  - (2) The restart model.
  - (3) School closure.
  - (4) The transformational model.
- Implement one of the four intervention models for turning around the identified persistently lowest-achieving school or schools.

However, participating in a school-to-school partnership program by working with a mentor school that has successfully transitioned from a low-achieving to a higher-achieving school pursuant to Education Code section 53202(c) is not mandated by the state.

The state enacted these requirements to implement a school intervention program that incorporates selection criteria from the federal RTTT legislation to compete for the federal competitive grant award. The federal grant program is voluntary and not mandated by federal law. By contrast, Education Code section 53202(a) and (b) imposes a state-mandated new program or higher level of service upon schools identified as persistently lowest-achieving, regardless of whether the school participates in the federal RTTT application process, is receiving grant funds under Title I of No Child Left Behind, or is voluntarily participating in a prior school improvement program pursuant to Education Code section 52053. The requirements that persistently lowest-achieving schools must implement one of four possible intervention models (turnaround, restart, school closure, or transformation) and hold at least two public hearings before implementation of an intervention model are not found in prior law. These activities provide a service to the public since they are enacted for the purpose of improving academic achievement.

Section 53203 requires the regional consortia authorized under Education Code section 53203, in collaboration with the California Department of Education (CDE), to provide technical assistance and support to school districts with one or more persistently lowest-achieving schools to assist in the implementation of intervention methods adopted by the district from funds obtained in the federal RTTT competitive grant program. A school district's participation in the regional consortia, however, is not required by state law and, thus, section 53203 does not impose any state-mandated activities upon school districts.

**3. Education Code sections 53301 and 53303, governing the Parent Empowerment Act, impose a state-mandated new program or higher level of service on school districts.**

The Parent Empowerment Act<sup>18</sup> creates a petition process authorizing parents of students in a school not identified as persistently lowest-achieving, but subject to corrective action under Title I of NCLB, fails to make adequate yearly progress, and has an API score of less than 800, to petition the governing school district to implement one of the four intervention models described in Education Code section 53202. NCLB and the federal RTTT do not have a parent petition process as part of the Title I grant funding or the RTTT grant criteria. Under the RTTT selection criteria, states are judged on their “comprehensive approach to educational reform,” but no specific parental component is identified.

Staff finds that Education Code sections 53300 and 53301 (Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 2) mandate a new program or higher level of service on school districts, beginning April 12, 2010, to perform the following activities upon receipt of a petition, signed by the number of parents specified in section 53300 and for the purpose of improving academic achievement or pupil safety, requesting the implementation of one or more of the four intervention models described in Education Code section 53202 for a school that is not identified as a persistently lowest-achieving school, but is subject to corrective action pursuant to NCLB, continues to fail to make adequate yearly progress, and has an API score of less than 800:

- Implement the intervention model requested by parents unless, in a regularly scheduled public hearing, the school district makes a finding in writing stating the reason it cannot

<sup>18</sup> Codified at Education Code sections 53300-53303.

implement the specific recommended option and instead designates in writing which of the other options it will implement in the subsequent school year consistent with the requirements specified in federal regulations and guidelines.

- Notify the SPI and SBE of the receipt of a petition and the final disposition of the petition. If the school district indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the school district shall notify the SPI and SBE that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in NCLB, 20 U.S.C. section 6301 et seq.

Section 53302, which is not pled in this test claim, limits the number of schools subject to the petition process, based upon the number of notices provided to the SPI and SBE, to 75 schools.

**4. Education Code sections 48354, 48356 and 48357 and California Code of Regulations, title 5, section 4702, which govern the Open Enrollment Act, impose a new program or higher level of service on school districts.**

Under the Open Enrollment Act<sup>19</sup>, the SPI is required to identify schools as low-achieving by creating a list of 1000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-2009 school year.<sup>20</sup> A school district that has been identified on the Open Enrollment List is required to notify parents of the option for a student to transfer to a higher-achieving school outside their district of residence to improve pupil achievement in accordance with the regulations and guidelines for the federal RTTT fund and to enhance parental choice in education.

Based on the plain language of the Open Enrollment statutes and regulation, staff finds that the following activities required by Education Code sections 48354, 48356, and 48357 (Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 1) and California Code of Regulations, title 5, section 4702 (Register 2010, No. 32), impose a state-mandated new program or higher level of service on school districts beginning April 12, 2010:

- (a) The school district of residence that receives notice that one or more of its schools are low-achieving and on the list created by the SPI, shall notify the parent(s) or guardian(s) of each pupil enrolled in a school included on the most recent Open Enrollment List of the option to transfer to another public school served by the district of residence or another school district. This notice shall be provided on the first day of instruction; or
- (b) If the district has not been notified of whether its school(s) is on the list, the notification shall be provided no later than 14 calendar days after the Open Enrollment List is posted on the CDE's Web site at <http://www.cde.ca.gov/>. (Ed. Code, § 48354(b)(1); Cal. Code Regs., tit. 2, § 4702(a).)
- Upon receipt of a transfer application, the school district of enrollment shall ensure that pupils who transfer pursuant to the Open Enrollment Act are enrolled in a school with a

<sup>19</sup> Codified at Education Code sections 48350-48361.

<sup>20</sup> Education Code section 48352.

higher API than the school in which the pupil was previously enrolled, and are selected through a random, nonbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, physical condition, proficiency in the English language, family income, or other individual characteristics. If the number of pupils requesting a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order in section 48356(d)(1) and (2) to select pupils at random. (Ed. Code, § 48356(d).)

- Within 60 days of receiving an application from a parent or guardian for transfer, the school district of enrollment shall notify the applicant parent and the school district of residence in writing whether the application has been accepted or rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection. (Ed. Code, § 48357.)

In addition, Education Code section 48358 requires the school district of enrollment to accept credits toward graduation that were awarded to the pupil by another school district and to graduate the pupil if that pupil meets the graduation requirements of the school district of enrollment. These requirements, however, are not new and do not provide a higher level of service to the public. Under existing law, minimum graduation standards for English, mathematics, science, social studies, physical education, and visual or performing arts or foreign language, are established by the state for high school graduation. In addition to those courses mandated by the state, school districts have the authority under existing law to adopt other coursework requirements for graduation.<sup>21</sup> Thus, the activity of graduating a pupil if he or she meets the graduation requirements of the district is not new. In addition, requiring the school district of enrollment to accept credits toward graduation that were awarded to the pupil by another school district establishes a lower level of service for the district of enrollment. By accepting credits for courses already taken by the pupil at the district of residence, the number of credits needed to graduate and the number of courses needed to be provided by the district of enrollment is reduced. Thus, Education Code section 48358 does not impose a new program or higher level of service on school districts.

Additionally, Education Code sections 48353, 48355, 48359, 48359.5, 48360 and 48361 and any activities pled under the Open Enrollment Act that are not identified in the bullets above, are either required of the state or are performed at the discretion of the school district (including the authority to adopt standards for acceptance and rejection of applications under the Open Enrollment Act, and the encouragement to keep an accounting of all requests made for alternative attendance and records of the disposition of those requests) and, thus, do not impose any state-mandated activities on school districts.

**C. The new mandated activities impose costs mandated by the state within the meaning of article XIII B, section 6 and Government Code section 17514.**

Government Code section 17564 provides that a test claim may not be filed unless the claim exceeds one thousand dollars. In this case, claimant alleges increased costs mandated by the state in the amount of \$450,000 for fourteen schools in the district impacted by the test claim statutes.

<sup>21</sup> Education Code section 51225.3.

Staff finds that none of the Government Code section 17556 exceptions to the subvention requirement apply to deny this claim.

Accordingly, the evidence in the record supports the finding that the claimant has incurred increased costs mandated by the state pursuant to Government Code section 17514. However, to the extent a district receives any federal funding or grant funding and applies those funds to the mandated activities, those funds are required to be identified as offsetting revenue and deducted from the costs claimed by the district. Article XIII B, section 6, does not require reimbursement when the costs are for expenses that are recoverable from sources other than tax revenue.<sup>22</sup>

### **Conclusion**

Staff concludes that the test claim statutes and regulation impose a reimbursable state-mandated new program or higher level of service, within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, beginning April 12, 2010, for the following activities only:

1. Race to the Top

School districts that receive notice that a school or schools within the district have been identified by the SPI as persistently lowest-achieving pursuant to Education Code section 53200(b) are required to perform the following activities:

- a) Hold at least two public hearings for each school identified as a persistently lowest-achieving school to notify staff, parents, and the community of the designation and to seek input from staff, parents, and the community regarding the option or options most suitable for the applicable school or schools in its jurisdiction. At least one of the public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest-achieving. (Ed. Code, § 53202(b), Stats. 2009-2010, 5th Ex. Sess., c. 2 (SBX5 1), § 8.)
- b) Conduct a meeting of the governing board to select one of the four interventions for turning around the identified persistently lowest-achieving school or schools as described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009:
  - (1) The turnaround model.
  - (2) The restart model.
  - (3) School closure.
  - (4) The transformational model. (Ed. Code, § 53202, Stats. 2009-2010, 5th Ex. Sess., c. 2 (SBX5 1), § 8.)

<sup>22</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 486-487.



- c) Implement one of the four intervention models for turning around the identified persistently lowest-achieving school or schools. (Ed. Code, § 53202(a), Stats. 2009-2010, 5th Ex. Sess., c. 2 (SBX5 1), § 8.)

However, participating in a school-to-school partnership program by working with a mentor school that has successfully transitioned from a low-achieving to a higher-achieving school pursuant to Education Code section 53202(c) is not mandated by the state.

## 2. Parent Empowerment Act

School districts that receive a petition, signed by the number of parents specified in Education Code section 53300 and for the purpose of improving academic achievement or pupil safety, requesting the implementation of one or more of the four intervention models described in Education Code section 53202 for a school that is not identified as a persistently lowest-achieving school, but is subject to corrective action pursuant to NCLB, continues to fail to make adequate yearly progress, and has an API score of less than 800, are required to perform the following activities:

- a) Implement the intervention model requested by parents unless, in a regularly scheduled public hearing, the school district makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options it will implement in the subsequent school year consistent with the requirements specified in federal regulations and guidelines. (Ed. Code, § 53300, Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 2.)
- b) Notify the SPI and SBE of the receipt of a petition and the final disposition of the petition. If the school district indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the school district shall notify the SPI and SBE that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in NCLB, 20 U.S.C. section 6301 et seq. (Ed. Code, § 53301, Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 2.)

## 3. Open Enrollment Act

- a) (1) A school district of residence that receives notice that one or more of its schools are low-achieving and on the list created by the SPI, shall notify the parent(s) or guardian(s) of each pupil enrolled in a school included on the most recent Open Enrollment List of the option to transfer to another public school served by the district of residence or another school district. This notice shall be provided on the first day of instruction.; or  
  
(2) If the district has not been notified of whether its school(s) is on the list, the notification shall be provided no later than 14 calendar days after the Open Enrollment List is posted on the CDE's Web site at <http://www.cde.ca.gov/>. (Ed. Code, § 48354(b)(1), Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 1; Cal. Code Regs., tit. 2, § 4702(a) (Register 2010, No. 32).)

- b) Upon receipt of a transfer application, the school district of enrollment shall ensure that pupils who transfer pursuant to the Open Enrollment Act are enrolled in a school with a higher API than the school in which the pupil was previously enrolled, and are selected through a random, nonbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, physical condition, proficiency in the English language, family income, or other individual characteristics. If the number of pupils requesting a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order in section 48356(d)(1) and (2) to select pupils at random. (Ed. Code, § 48356(d), Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 1.)
- c) Within 60 days of receiving an application from a parent or guardian for transfer, the school district of enrollment shall notify the applicant parent and the school district of residence in writing whether the application has been accepted or rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection. (Ed. Code, § 48357, Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 1.)

All other statutes and activities pled are denied.

**Staff Recommendation**

Staff recommends that the Commission adopt the attached proposed statement of decision as its test claim decision, to partially approve the test claim, as specified.

Staff further recommends that the Commission authorize staff to make any non-substantive, technical changes to the proposed test claim decision following the hearing.

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Section 60601, as added and amended by Statutes 1995, Chapter 975, Section 1 (AB 265); Statutes 1996, Chapter 69, Section 1 (SB 430); Statutes 2001, Chapter 722, Section 2 (SB 233); Statutes 2004, Chapter 233, Section 1 (SB 1448); Statutes 2007, Chapter 174, Section 11 (SB 80); Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapter 2, Section 9 (SBX5 1);

Education Code Sections 48353, 48354, 48355, 48356, 48357, 48358, 48359, 48359.5, 48360 and 48361, as added by Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapter 3, Section 1 (SBX5 4);

Education Code Sections 53100, 53101, 53200, 53201, 53201.5, 53202 and 53203, as added by Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapter 2, Section 8 (SBX5 1);

Education Code Sections 53300, 53301 and 53303, as added by Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapter 3, Section 2 (SBX5 4);

California Code of Regulations, Title 5, Section 4702 (Register 2010, Nos. 32).

Filed on November 23, 2010

By Twin Rivers Unified School District,  
Claimant.

Case No.: 10-TC-06

*Race to the Top*

STATEMENT OF DECISION PURSUANT  
TO GOVERNMENT CODE SECTION  
17500 ET SEQ.; CALIFORNIA CODE OF  
REGULATIONS, TITLE 2, DIVISION 2,  
CHAPTER 2.5, ARTICLE 7.

*(Adopted March 28, 2014)*

**PROPOSED STATEMENT OF DECISION**

The Commission on State Mandates (Commission) heard and decided this test claim during a regularly scheduled hearing on March 28, 2014. [Witness list will be included in the final statement of decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified] the proposed statement of decision to [approve/deny] the test claim at the hearing by a vote of [vote count will be included in the final statement of decision.]

### **Summary of the Findings**

This test claim addresses the state statutes enacted in 2009 and 2010 to make California competitive in the federal Race to the Top (RTTT) education grant program.

The Commission concludes that the test claim statutes and regulation identified below impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, beginning April 12, 2010.

#### **1. Race to the Top**

School districts that receive notice that a school or schools within the district have been identified by the SPI as persistently lowest-achieving pursuant to Education Code section 53200(b) are required to perform the following activities:

- a) Hold at least two public hearings for each school identified as a persistently lowest-achieving school to notify staff, parents, and the community of the designation and to seek input from staff, parents, and the community regarding the option or options most suitable for the applicable school or schools in its jurisdiction. At least one of the public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest-achieving. (Ed. Code, § 53202(b), Stats. 2009-2010, 5th Ex. Sess., c. 2 (SBX5 1), § 8.)
- b) Conduct a meeting of the governing board to select one of the four interventions for turning around the identified persistently lowest-achieving school or schools as described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009:
  - (1) The turnaround model.
  - (2) The restart model.
  - (3) School closure.
  - (4) The transformational model. (Ed. Code, § 53202(a), Stats. 2009-2010, 5th Ex. Sess., c. 2 (SBX5 1), § 8.)
- c) Implement one of the four intervention models for turning around the identified persistently lowest-achieving school or schools. (Ed. Code, § 53202(a), Stats. 2009-2010, 5th Ex. Sess., c. 2 (SBX5 1), § 8.)

However, participating in a school-to-school partnership program by working with a mentor school that has successfully transitioned from a low-achieving to a higher-

achieving school pursuant to Education Code section 53202(c) is not mandated by the state.

## 2. Parent Empowerment Act

School districts that receive a petition, signed by the number of parents specified in Education Code section 53300 and for the purpose of improving academic achievement or pupil safety, requesting the implementation of one or more of the four intervention models described in Education Code section 53202 for a school that is not identified as a persistently lowest-achieving school, but is subject to corrective action pursuant to NCLB, continues to fail to make adequate yearly progress, and has an API score of less than 800, are required to perform the following activities:

- a) Implement the intervention model requested by parents unless, in a regularly scheduled public hearing, the school district makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options it will implement in the subsequent school year consistent with the requirements specified in federal regulations and guidelines. (Ed. Code, § 53300, Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 2.)
- b) Notify the SPI and SBE of the receipt of a petition and the final disposition of the petition. If the school district indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the school district shall notify the SPI and SBE that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in NCLB, 20 U.S.C. section 6301 et seq. (Ed. Code, § 53301, Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 2.)

## 3. Open Enrollment Act

- a) (1) A school district of residence that receives notice that one or more of its schools are low-achieving and on the list created by the SPI, shall notify the parent(s) or guardian(s) of each pupil enrolled in a school included on the most recent Open Enrollment List of the option to transfer to another public school served by the district of residence or another school district. This notice shall be provided on the first day of instruction; or  
(2) If the district has not been notified of whether its school(s) is on the list, the notification shall be provided no later than 14 calendar days after the Open Enrollment List is posted on the CDE's Web site at <http://www.cde.ca.gov/>. (Ed. Code, § 48354(b)(1), Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 1; Cal. Code Regs., tit. 2, § 4702(a) (Register 2010, No. 32).)
- b) Upon receipt of a transfer application, the school district of enrollment shall ensure that pupils who transfer pursuant to the Open Enrollment Act are enrolled in a school with a higher API than the school in which the pupil was previously enrolled, and are selected through a random, nonbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, physical condition, proficiency in the English language, family income,

or other individual characteristics. If the number of pupils requesting a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order in section 48356(d)(1) and (2) to select pupils at random. (Ed. Code, § 48356(d), Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 1.)

- c) Within 60 days of receiving an application from a parent or guardian for transfer, the school district of enrollment shall notify the applicant parent and the school district of residence in writing whether the application has been accepted or rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection. (Ed. Code, § 48357, Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 1.)

All other statutes and activities pled are denied.

## COMMISSION FINDINGS

### I. Chronology

- 11/23/2010 Claimant, Twin Rivers Unified School District, filed the *Race to the Top* test claim, 10-TC-06 with the Commission.<sup>23</sup>
- 12/22/2010 Commission staff issued a notice of complete test claim filing and schedule for comments.
- 08/05/2013 Commission staff issued a request to the claimant and state agencies for additional briefing regarding grant funding applicable to the Race to the Top program. No responses were filed on this request.

### II. Background

This test claim addresses statutes enacted in 2009 and 2010 to make California competitive in the federal Race to the Top (RTTT) education grant program.

In February 2009, Congress enacted the American Recovery and Reinvestment Act (ARRA), which provided substantial one-time funds to help struggling states and created competitive grant programs designed to spur education and economic reform. One of the programs created as part of ARRA was the RTTT competitive grant program. Under RTTT, states competed for approximately \$4.35 billion in funds to encourage and reward states that are creating conditions for education innovation and reform; achieving significant improvement in student outcomes, including making substantial gains in student achievement, closing achievement gaps, improving high school graduation rates, and ensuring student preparation for success in college and careers; and implementing ambitious plans in the following four core education reform areas:

- Adopting standards and assessments that prepare students to succeed in college and the workplace and to compete in the global economy;

<sup>23</sup> Based on the filing date of this test claim and pursuant to Government Code section 17557(e), the potential period of reimbursement for this claim begins July 1, 2009. However, because the effective date of the statutes over which the Commission has jurisdiction is April 12, 2010, any reimbursement requirement under this test claim would not begin until that date.

- Building data systems that measure student growth and success, and inform teachers and principals about how they can improve instruction;
- Recruiting, developing and rewarding, and retaining effective teachers and principals, especially where they are needed most; and
- Turning around our lowest-achieving schools.<sup>24</sup>

The federal RTTT program initially consisted of two award phases. States could apply in either phase, and if they failed to receive an award in the first phase, they could apply again. In order to be eligible to receive funds under RTTT, a state must meet two requirements: the state application for grant funding must be approved by the U.S. Education Department; and no legal, statutory, or regulatory barriers can exist at the state level to linking data on student achievement or student growth to teachers and principals for the purpose of teacher and principal evaluation.

California submitted a Phase 1 application to receive \$1 billion. California's application, however, finished 27<sup>th</sup> out of 41 states that applied and, thus, the Phase 1 application was not successful.<sup>25</sup> In May 2010, California applied for an award in the second phase. Although California was selected as a finalist, it did not secure any grant funding. In 2011, the federal Department of Education announced that it would allow the finalists to apply for a share of \$200 million added to the program in 2011. California's application, however, was rejected in November 2011. California ultimately received a RTTT Early Learning Challenge grant of \$52.6 million in December 2011 and an additional grant of \$22.4 million in August 2013.

#### **A. The test claim statutes and regulation; California's response to the federal RTTT program**

The state Legislature added article 10 to chapter 2 and added a new chapter 18 to the Education Code specifically to make California's application for RTTT grant funds competitive. Chapter 18 includes Race to the Top (Ed. Code §§ 53100-53203) and the Parent Empowerment Act (Ed. Code sections §§53300-53303) and article 10 to chapter 2 added the Open Enrollment Act (Ed. Code sections 48350-48361). The California Department of Education (CDE) also adopted a regulation (Cal. Code Regs., tit. 5, § 4702) to implement the Open Enrollment Act. These provisions are summarized below.

##### *1) Race to the Top (Ed. Code, §§ 53100-53203)*

Education Code sections 53100-53203 establish a process by which, through a memorandum of understanding (MOU), the state and local educational agencies who choose to participate in the application for RTTT grant funds target the RTTT criteria, focusing particularly on persistently low-achieving schools.<sup>26</sup> These code sections require the state and participating schools who have signed a memorandum of understanding to develop a plan to address how federal funds from

<sup>24</sup> Race to the Top Executive Summary, published by the U.S. Department of Education (November 2009).

<sup>25</sup> "Race to the Top: An Update and Key Issues for Phase 2, Legislative Analyst's Office, May 12, 2010.

<sup>26</sup> Education Code sections 53100-53203.

both RTTT and other federal funding sources will provide resources for those identified schools.<sup>27</sup> The plan may address professional development, technical assistance, and partnership with other schools that have successfully transitioned from low performing to higher performing schools.<sup>28</sup>

They also require identification of schools that meet the definition of persistently lowest-achieving schools. “Persistently Lowest-Achieving Schools” are defined to include:

- The lowest five percent of schools that are Title 1, No Child Left Behind (NCLB), schools in improvement, corrective action, or restructuring when measured by the academic achievement of pupils in reading/language arts and mathematics;
- Secondary schools that do not receive Title 1 NCLB funds, but whose academic achievement of pupils in reading/language arts and mathematics is in the lowest five percent; and
- Any high school that has a graduation rate that is less than 60 percent in each of the previous three years; and any school determined to be included in the list by the Superintendent of Public Instruction (SPI) and the state Board of Education (SBE) that is a county community school, a juvenile court school, or a school that provides educational services exclusively for special education students.<sup>29</sup>

Once a school is identified by the state as a persistently low-achieving school, the governing school district is required to hold at least two public hearings to notify staff, parents, and the community of the designation and to seek input regarding the options for implementing one of the four intervention models described in Appendix C of the federal RTTT legislation for turning around the school.<sup>30</sup> These models include the following:

- Turn around model. This includes replacing the principal, screening all staff and rehiring no more than 50 percent of the existing staff and adopting a new governance structure.
- Restart model. This model includes converting to a charter school or hiring an education management company to run the school.
- School closure. This model envisions closing the school down and sending the students to a higher-achieving school.
- Transformation model. This model involves specific interventions including the following: developing and increasing teacher and school leader effectiveness by replacing the principal and using rigorous and equitable evaluation systems for teachers and principals; identifying and rewarding school leaders, teachers, and staff, who have increased student achievement and graduation rates, and identifying and removing those who have not improved their professional practice; providing staff with professional development; and implementing strategies for financial incentives, increased opportunities

<sup>27</sup> Education Code section 53101.

<sup>28</sup> Education Code section 53101.

<sup>29</sup> Education Code section 53201.

<sup>30</sup> Education Code section 53202(b).



for promotion and career growth, and retaining staff with the skills necessary to meet the needs of the students.<sup>31</sup>

Unless a school designated as persistently lowest-achieving has implemented a reform within the last two years that is showing significant progress, the district is required by state statute to select and implement one of the intervention models described above.<sup>32</sup> A persistently lowest-achieving school implementing the turnaround or transformational model may participate in a school-to-school partnership program by working with a mentor school that has successfully transitioned from a low-achieving to a higher-achieving school.<sup>33</sup> If a school-to-school mentor program is used, the principal of the mentor school is required to provide guidance to develop a reform plan for the persistently lowest-achieving school.<sup>34</sup> The mentor school may receive funding to the extent federal funds are made available, for serving as the mentor school.<sup>35</sup>

School districts with one or more persistently lowest-achieving schools are authorized to assist in the implementation of intervention methods adopted by the district from funds obtained in the federal RTTT competitive grant program.<sup>36</sup>

2) *Parent Empowerment Act (Ed. Code, §§53300-53303)*

The Parent Empowerment Act allows parents to petition a school to implement one of the intervention models described above in order to improve academic achievement or pupil safety. Parents may file a petition for those schools that are not identified as persistently low-achieving, but are subject to corrective action under NCLB, fail to make adequate yearly progress, and have an Academic Performance Index (API) score of less than 800.<sup>37</sup>

Schools are required, following a receipt of a petition filed by parents, to implement the intervention option requested by the parents unless, in a regularly scheduled public hearing of the school district, the school district makes a finding in writing stating the reason it cannot implement the specific recommended option and, instead, designates in writing which of the other intervention options it will implement in the subsequent school year that has substantial promise of enabling the school to make adequate yearly progress.<sup>38</sup> The school district is also required to notify the SPI and SBE upon receipt of a petition and the district's final disposition of the matter.<sup>39</sup>

<sup>31</sup> Education Code section 53202, RTTT Appendix C Notice of Final Priorities, Requirements, Definitions, Selection Criteria (Federal Register, Volume 74, Number 221, November 18, 2009).

<sup>32</sup> Education Code section 53202(a).

<sup>33</sup> Education Code section 53202(c).

<sup>34</sup> Education Code section 53202(c).

<sup>35</sup> Education Code section 53202(c).

<sup>36</sup> Education Code section 53202(c).

<sup>37</sup> Education Code section 53300.

<sup>38</sup> Education Code section 53300.

<sup>39</sup> Education Code section 53301.

3) Open Enrollment Act (Ed. Code, §§ 48350-48361, Cal. Code of Regs., tit. 5, § 4702)

The Open Enrollment Act is intended to improve the academic achievement of pupils and to enhance parental choice in education by providing pupils enrolled in low-achieving schools with additional options to enroll in higher-achieving public schools throughout the state regardless of the pupil's residence.<sup>40</sup>

Education Code section 48354 and section 4702 of the CDE regulations require a school district of residence that has been identified on a list known as the Open Enrollment List to notify parents of the option for a student to transfer to a higher-achieving school by the first day of the school year. The school district of residence may prohibit a transfer if the governing board of the school district determines the transfer would negatively impact a court-ordered or voluntary desegregation plan of the district or the racial and ethnic balance of the district, provided that the school district's policy is consistent with state and federal law.<sup>41</sup>

The school district of enrollment is required to prioritize transfers, first providing a period of time for resident pupil enrollment before accepting transfers from pupils residing outside the district of enrollment.<sup>42</sup> The school district of enrollment may develop specific written standards for acceptance or rejection of transfers.<sup>43</sup> The school district of enrollment must ensure a student who transfers from an identified school are enrolled in a school with a higher API and that placement of that student is made through a random, unbiased process.<sup>44</sup> The school district of enrollment has 60 days to notify the applicant parent and school district of residence in writing whether the application is accepted or rejected.<sup>45</sup> The school district of enrollment must accept credits toward graduation awarded by another school district and must graduate the student if the pupil meets the graduation requirements of the school district of enrollment.<sup>46</sup>

The school district of residence and the school district of enrollment are encouraged to keep records of all requests for transfer.<sup>47</sup>

4) Education Code section 60601, relating to the STAR test (as added and amended from 1995 to 2010)

Education Code section 60601, as amended in 2010, sets the inoperative and repeal date for the Leroy Greene California Assessment of Academic Achievement Act, which created a school STAR testing program. As amended in 2010, the statute provided that the STAR testing program shall become inoperative on July 1, 2014, and as of January 1, 2015, is repealed unless a later

<sup>40</sup> Education Code section 48351.

<sup>41</sup> Education Code section 48355.

<sup>42</sup> Education Code section 48354.

<sup>43</sup> Education Code section 48356(a).

<sup>44</sup> Education Code section 48356(d).

<sup>45</sup> Education Code section 48357.

<sup>46</sup> Education Code section 48358.

<sup>47</sup> Education Code section 48359.

enacted statute, enacted before January 1, 2015, deletes or extends the dates upon which it becomes inoperative and is repealed. A later enacted statute, Statutes 2013, chapter 489, deleted the provisions establishing the STAR program and replaced them with provisions establishing the Measurement of Academic Performance and Progress (MAPP) program, commencing in the 2013/2014 school year. Statutes 2013, chapter 489 amended section 60601 to provide an inactive date of July 1, 2020 and a repeal date of July 1, 2021.

### **B. The Federal No Child Left Behind Act**

In 2001, Congress enacted the No Child Left Behind Act (NCLB), which amended the long standing Elementary and Secondary School Act, first adopted in 1965. Significant grant funding is made available to states through Title I of NCLB (20 U.S.C. sections 6300, *et seq.*) to fund educational programs for disadvantaged students.

NCLB created an ambitious long-term goal of proficiency in reading and mathematics to be achieved by school year 2013-2014. To achieve that goal, NCLB requires states that accept Title I funding to develop an approved system for implementing the accountability provisions of NCLB, including the creation of a single definition of adequate yearly progress for all schools in the state. Adequate yearly progress is measured by annual targets for academic achievement, participation in assessments, graduation rates for high schools, and other academic indicators for elementary and middle schools.<sup>48</sup>

Before a state receives Title I funding, the state submits a plan, formulated with local education agencies (LEAs), teachers, parents and other personnel that demonstrates the state has developed challenging academic standards and has implemented an accountability system.<sup>49</sup> In addition, any LEA accepting funding under Title I is required to file a local plan with the state that includes assurances the LEA will use high quality student academic assessments in addition to those provided by the state.<sup>50</sup>

NCLB requires states and LEAs that receive funds to annually assess academic progress to ensure each school is making adequate yearly progress as measured by the state academic assessment model and to disseminate the results of the review to parents, teachers, principals, schools and the community. A school is identified for improvement if a school fails, for two consecutive years, to make adequate yearly academic progress as defined in NCLB.<sup>51</sup> An identified school must give notice to all students, no later than the first day of the school year, of the opportunity to transfer to another school or public charter school that is not an identified school, with priority going to the lowest achieving children from low income families.<sup>52</sup> Prior to making a final determination on identifying a school for school improvement, the school has the opportunity to review the evidence in support of the determination, and present evidence to correct any statistical or

<sup>48</sup> 20 U.S.C. section 6311.

<sup>49</sup> 20 U.S.C. section 6311.

<sup>50</sup> 20 U.S.C. section 6312.

<sup>51</sup> 20 U.S.C. section 6316.

<sup>52</sup> 20 U.S.C. section 6316(b)(1).

substantive reason why the school should not be identified as needing improvement. The LEA must publicize the final determination within 30 days of the review period.<sup>53</sup>

Once identified for improvement, NCLB requires a school to develop a plan to cover a two-year period that meets specific objectives to strengthen core academic subjects.<sup>54</sup> The plan may involve the use of a comprehensive school reform model to assure students will meet the state's proficient level of academic achievement by 2013-2014.<sup>55</sup> The plan shall also require the expenditure of at least 10 percent of funding on high quality professional development so that the school will be removed from school improvement status, establish measurable objectives to make adequate yearly progress, and explain how the school will provide written notice to parents of the school's identification for improvement.<sup>56</sup> LEAs must provide technical assistance to identified schools to assess data, provide professional development opportunities, instructional strategies, and analyze and revise the school's budget to more effectively allocate resources to increase academic achievement.<sup>57</sup>

If a school fails to make adequate yearly progress by the end of the second year of identification, it is required to develop a system of corrective action and disseminate information regarding the corrective action to the public and parents.<sup>58</sup> In addition to offering students at the identified school the opportunity to transfer to another school within the district, as well as making supplemental educational services available, an LEA must prepare and implement a plan for alternative governance of the school.<sup>59</sup> Alternative governance may include reopening the school as a charter school, replacing all or most of the school staff, entering into a contract with an entity with a demonstrated record of effectiveness to operate the public school, and turning the operation of the school over to a state educational agency if permitted under state law and agreed to by the state.<sup>60</sup> The LEA in need of restructuring must give prompt notice to teachers and parents of the restructuring and must provide both teachers and parents the opportunity to comment and participate in the development of a restructuring plan.<sup>61</sup>

California receives Title 1 NCLB federal funding and has enacted several other statutes to implement the requirements of that federal law, including the STAR program (Ed. Code §§ 60601, 60640, *et seq.*) and the Public Schools Accountability Act of 1999 (Ed. Code, §§ 52050, *et seq.*). The STAR test results are a major component used for calculating each school's API,

<sup>53</sup> 20 U.S.C. section 6316(b)(2).

<sup>54</sup> 20 U.S.C. section 6316(b)(3).

<sup>55</sup> 20 U.S.C. section 6316(B)(7).

<sup>56</sup> 20 U.S.C. section 6216(b)(7).

<sup>57</sup> 20 U.S.C. section 6316(b)(7).

<sup>58</sup> 20 U.S.C. section 6316(b)(8).

<sup>59</sup> 20 U.S.C. section 6316(b)(8).

<sup>60</sup> 20 U.S.C. section 6316(b)(8).

<sup>61</sup> 20 U.S.C. section 6316(b)(7).

which measures the growth in academic performance. These results are also used for determining whether elementary and middle schools are making adequate yearly progress in helping pupils become proficient on the California content standards, as required by NCLB.<sup>62</sup> The Public Schools Accountability Act of 1999 establishes the API and intervention programs for underperforming schools for purposes of complying with NCLB.<sup>63</sup>

### **III. Position of the Parties**

#### **A. Claimant's position**

The claimant alleges that the test claim statutes and regulation impose a reimbursable state-mandated program for school districts under article XIII B, section 6 and Government Code section 17514. Claimant alleges that implementing intervention programs in fourteen schools in the Twin Rivers School District identified as persistently lowest-achieving, holding at least two public hearings prior to implementing an intervention model, and providing notice of the option to transfer from an identified lowest-achieving school will cost the District approximately \$450,000. Claimant alleges that the actual or increased statewide costs to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed to be \$5,000,000.

#### **B. State Agency Position**

No state agency has submitted comments on the test claim or responded to Commission staff's request for additional briefing.

### **IV. Discussion**

Article XIII B, section 6 of the California Constitution states:

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service.

The purpose of article XIII B, section 6 is to “preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that article XIII A and XIII B impose.”<sup>64</sup> Thus the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government]...”<sup>65</sup>

Reimbursement under article XIII B, section 6 is required when the following elements are met:

<sup>62</sup> 20 U.S.C. section 6311(b)(2).

<sup>63</sup> Education Code sections 52050 et seq. (added by Stats. 1999, 1<sup>st</sup> Extraordinary Session (SBX1 1), ch.6.1, § 1).

<sup>64</sup> *County of San Diego v. State of California* (1997) 15 Cal.4<sup>th</sup> 68, 81.

<sup>65</sup> *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

1. A state statute or executive order requires or “mandates” local agencies or school districts to perform and activity.<sup>66</sup>
2. The mandated activity either:
  - a. Carries out the governmental function of providing a service to the public; or
  - b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.<sup>67</sup>
3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.<sup>68</sup>
4. The mandated activity results in the local agency or school district incurring increased cost. However, increased costs are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.<sup>69</sup>

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.<sup>70</sup> The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.<sup>71</sup> In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”<sup>72</sup>

**A. The Commission does not have jurisdiction over Education Code section 60601, as added and amended from 1995 through 2007.**

The claimant has pled Education Code section 60601, as originally enacted in 1995 and amended in 1996, 2001, 2004, 2007, and in 2009-2010. The Commission does not have jurisdiction over Education Code section 60601, as enacted in 1995 and amended from 1996 through 2007 because

<sup>66</sup> *San Diego Unified School Dist. v. Commission on State Mandates (San Diego Unified School Dist.)* (2004) 33 Cal.4<sup>th</sup> 859, 874.

<sup>67</sup> *San Diego Unified School Dist., supra* 33 Cal.4<sup>th</sup> at 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

<sup>68</sup> *San Diego Unified School Dist., supra* 33 Cal.4<sup>th</sup> 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal 3d 830, 835.

<sup>69</sup> *County of Fresno v. state of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4<sup>th</sup> 1265, 1284; Government Code sections 17514 and 17556.

<sup>70</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551 and 17552.

<sup>71</sup> *County of San Diego, supra*, 15 Cal.4<sup>th</sup> 68,109.

<sup>72</sup> *County of Sonoma, supra*, 84 Cal.App.4<sup>th</sup> 1265, 1280, citing *City of San Jose v. State of California* (1995) 45 Cal.App.4<sup>th</sup> 1802, 1817.

these statutes were the subject of a prior test claim, *Standardized Testing and Reporting (STAR) II and III* (05-TC-02, 05-TC-03, and 08-TC-06), and denied because the code section does not impose any mandated duties on school districts.<sup>73</sup> A Commission decision that becomes final and has not been set aside by a court cannot be reconsidered by the Commission.<sup>74</sup>

In addition, the statute of limitations for filing a test claim on Education Code section 60601, as added and amended from 1995 to 2007, has expired. Government Code section 17551(c) requires a test claim be filed “not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.” As this test claim was filed on November 23, 2010, it is outside the statute of limitations for the initial enactment of section 60601 and for all amendments from 1995 to 2007.

Accordingly, the Commission finds that it does not have jurisdiction over Education Code section 60601, as added and amended in 1995, 1996, 2001, 2004, and 2007.

**B. Some of the remaining statutes and test claim regulation impose a state-mandated new program or higher level of service on school districts.**

**1. Education Code section 60601 (amended by Statutes 2009-2010, chapter 2) does not impose a state-mandated new program or higher level of service on school districts.**

Education Code section 60601 as amended by Statutes 2009-2010, chapter 2, effective April 12, 2010, set the date by which the chapter governing the STAR program would become inoperative and then repealed. By its plain language, Education Code section 60601 does not impose any state-mandated activities on school districts.

**2. Education Code section 53202 (a) and (b) imposes a state-mandated new program or higher level of service on school districts, however, the remaining code sections governing the state’s Race to the Top application and implementation activities do not impose a new program or higher level of service.**

a) Education Code sections 53100 and 53101 do not impose any state-mandated activities on school districts.

Education Code sections 53100 and 53101 contain the framework of the RTTT application process. The federal RTTT statute required states filing an application for grant funds to enter into a memorandum of understanding with LEAs in order to be eligible to apply for the federal grant funds.<sup>75</sup> Section 53100 provides that “The Superintendent and the President of the state

<sup>73</sup> 05-TC-02, 05-TC03, and 08-TC-06 addressing Education Code sections 60601 et seq., as added or amended by Statutes 1995, Chapter 975, Statutes 1997, Chapter 735, Statutes 2000, Chapter 576, Statutes 2001, Chapter 722, Statutes 2002, Chapter 1168, Statutes 2003, Chapter 773, Statutes 2004, Chapter 183, Statutes 2004, Chapter 233, Statutes 2005, Chapter 676, Statutes 2007, Chapter 174, Statutes 2007, Chapter 730, Statutes 2008, Chapter 473, and Statutes 2008, Chapter 757.

<sup>74</sup> *California School Boards Assoc. v. State of California* (2009) 171 Cal.App.4th 1183, 1200.

<sup>75</sup> 34 CFR Subtitle B, Chapter II Race to the Top Fund (Federal Register, Volume 74, Number 221, November 18, 2009).

board *may* enter into a memorandum of understanding with a local educational agency” in order to apply for grant funds under the federal RTTT competitive grant fund program. This section further provides that “participating local educational agencies” shall enter into the memorandum of understanding and obtain signatures from as many as possible of each participating agency’s superintendent of schools, president of the local government boards, and leaders of any local collective bargaining unit for teachers.

The federal RTTT program requires states applying for grant funds to have in place a plan to implement the priorities articulated in the grant fund.<sup>76</sup> To meet that requirement, California Education Code section 53101 requires the state to develop a plan to submit as part of the RTTT application process.<sup>77</sup> The plan must demonstrate how funds from the federal RTTT program, as well as any other available federal funds, will be used to provide resources to the low-achieving and persistently lowest-achieving schools that can be used for professional development, technical assistance, and partnering with schools that have successfully transitioned from low to higher-performing status.<sup>78</sup> Section 53101(a) states that “the Governor, the Superintendent, and the state board shall jointly develop a single high-quality plan or multiple plans, *in collaboration with participating local educational agencies*, as necessary, to submit as part of an application for federal Race to the Top funds, authorized under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).” Thus, school districts that have voluntarily agreed to participate in the MOU and federal RTTT application process are requested to collaborate in the preparation of the plan.

The Commission finds that Education Code sections 53100 and 53101 do not impose any state-mandated activities on school districts. The plain language of the RTTT provisions pled creates a voluntary program; school districts “may” enter into an MOU with the state to apply for and participate in the federal RTTT grant program. If a school district decides to participate, the district is required to gather the signatures and is encouraged to participate in the development of the state’s plan. Those activities, however, are triggered by the district’s voluntary decision to participate in the program. Pursuant to the court’s decision in *Department of Finance v. Commission on State Mandates (Kern High School Dist.)*, downstream requirements triggered by local discretionary decisions are not eligible for reimbursement.<sup>79</sup>

Accordingly, the Commission finds that Education Code sections 53100 and 53101 do not impose any state-mandated activities on school districts.

- b) Education Code section 53102, which addresses the independent evaluation of the state’s plan for RTTT funds, imposes duties on state agencies, but does not impose any state-mandated activities on local school districts.

<sup>76</sup> 34 CFR Subtitle B, Chapter II, Federal Register Volume 74, No. 221.

<sup>77</sup> *Id.*

<sup>78</sup> Education Code section 53101(b).

<sup>79</sup> *City of Merced v. State of California* (1984) 153 Cal.App.3d 777; *Department of Finance v. Commission on State Mandates (Kern)* (2003) 30 Cal.4th 727; *Department of Finance v. Commission on State Mandates (POBRA)* (2009) 170 Cal.App.4th 1355.



Section 53102(a) requires that, by January 1, 2011, the Superintendent of Public Instruction (SPI) “shall contract for an independent evaluation of the implementation and impact of the state plan submitted in an application for a federal Race to the Top competitive grant award.” As part of the independent evaluation, section 53102(b) requires the SPI to convene a working group consisting of staff representing the policy and fiscal committees of both houses of the Legislature, the Legislative Analyst’s Office, the Department of Finance, the Governor, the State Board of Education (SBE), and the Department of Education (CDE) to jointly develop the parameters of the evaluation, and make recommendations regarding development of any requests for proposals or request for applications used to solicit contract proposals, and the selection of the independent evaluator.

Section 53102(c) requires the SPI to provide to the Legislature, the Governor, and SBE an interim evaluation report on or before June 1, 2012, and a final evaluation report on or before June 1, 2014.

Section 53102(d) states “[t]he department shall use federal funds made available from the Race to the Top Fund and detailed in the expenditure plan required pursuant to subdivision (c) of Section 53101 for the purpose of contracting for this evaluation.”

Accordingly, the Commission finds that Education Code section 53102 requires activities of the state, but imposes no state-mandated activities on school districts.

- c) Education Code sections 53200, 53201, 53201.5, which require the identification of persistently lowest-achieving schools, do not impose any state-mandated activities on school districts.

Education Code section 53200-53203 are informally titled “Intervening in the Persistently Lowest-Achieving Schools” and describe the interventions required for persistently lowest-achieving schools that are identified by the state. Section 53200 provides the following definitions for the article:

- “Lowest-achieving school” means “a school described in subdivision (a) of section 53201.” Section 53201(a) identifies schools that are Title 1 schools in improvement, corrective action, or restructuring under NCLB.
- “Persistently lowest-achieving school” means “a school identified pursuant to subdivisions (a) to (f) inclusive, of Section 53201.” These schools include the lowest five percent of the Title 1 schools in improvement, corrective action, or restructuring when measured by the academic achievement of pupils in reading/language arts and mathematics; secondary schools that do not receive Title 1 funds, but whose academic achievement of pupils in reading/language arts and mathematics is in the lowest five percent; any high school that has a graduation rate that is less than 60 percent in each of the previous three years; and any school determined to be included in the list by the SPI and SBE that is a county community school, a juvenile court school, or a school that provides educational services exclusively for special education students.

Education Code section 53201 requires the SPI and SBE to establish a list of the lowest-achieving and persistently lowest-achieving schools as follows:

- (a) Identify any Title I school in improvement, corrective action, or restructuring.

- (b) Identify the lowest 5 percent of schools in subdivision (a) as measured by academic achievement of all pupils in a school in terms of proficiency on the state's assessment under section 1111(b)(3) of the federal Elementary and secondary Education Act (20 U.S.C. Sect. 6301 et seq.) in reading/language arts and mathematics, combined pursuant to subdivision (h).
- (c) Identify any secondary school that is eligible for, but that does not receive, Title I funds and is in the lowest 5 percent of secondary schools as measured by the academic achievement of all pupils in a school in terms of proficiency on the state's assessment under Section 1111(b)(3) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) in reading/language arts and mathematics, combined pursuant to subdivision (h).
- (d) Add to the schools identified pursuant to subdivisions (a) to (c), inclusive, any high school that has a graduation rate, as defined in Section 200.19(b) of Title 34 of the Code of Federal Regulations, that is less than 60 percent in each of the previous three years.
- (e) To the extent allowable under federal law, exclude from the schools identified pursuant to subdivisions (a) to (d), inclusive, a school that meets any of the following, except as provided in subdivision (f):
  - 1. The school is a county community school operated pursuant to Chapter 6.5 (commencing with Section 1980) of Part 2 of Division 1 of Title 1.
  - 2. The school is a juvenile court school operated pursuant to Article 2.5 (commencing with Section 48645) of Chapter 4 of part 27.
  - 3. The school provides educational services exclusively to individuals with exceptional needs as defined in Section 56-26.
  - 4. The school has experience academic growth of at least 50 points over the previous five years as measured by the Academic Performance Index, using the most recent data available.
- (f) Notwithstanding subdivision (e), a school that meets any of the criteria in subdivision (e) shall not be excluded from the schools identified pursuant to subdivisions (a) to (d), inclusive if both the Superintendent and the state board find cause not to exclude the school.
- (g) To the extent allowable under federal law, a community day school, operated pursuant to Article 3 (commencing with Section 48660) of Chapter 4 or Part 27, may be excluded from the schools identified pursuant to subdivisions (a) to (d), inclusive, if both the Superintendent and the state board find cause to exclude the school.
- (h) For the purposes of identifying the lowest 5 percent of schools pursuant to subdivisions (b) and (c), the Superintendent and the state board may use a methodology consistent with the methodology used to calculate the Academic Performance Index in order to create composite results across content areas and grade levels in reading/language arts and mathematics pursuant to subdivisions (b) and (c), unless the Superintendent and the state

board develop a more appropriate methodology to meet the requirements of subdivisions (b) and (c).

- (i) Prior to the implementation of subdivision (h), the Superintendent and the state board shall notify the appropriate policy and fiscal committees of the Legislature.

Education Code section 53201.5 then requires that the “[t]he Superintendent shall notify the governing board of a school district, county superintendent of schools, or the governing body of a charter school or its equivalent, that one or more of the schools in its jurisdiction have been identified as a persistently lowest-achieving school.”

The Commission finds that Education Code sections 53200, 53201, and 53201.5 impose duties on the state, but do not impose any state-mandated activities on school districts.

- d) Education Code section 53202 imposes a state-mandated new program or higher level of service on identified school districts with persistently lowest-achieving schools to hold hearings and implement an intervention model.

Education Code section 53202 requires those school districts notified by the SPI that one or more of the schools in its jurisdiction has been identified as a persistently lowest-achieving school, to select and implement one of the four interventions identified in the federal RTTT program for turning around persistently lowest-achieving schools. If the SPI and SBE determine that an identified school has already implemented interventions within the last two years that show significant progress in turning the school around, then additional intervention is not required for that school. Education Code section 53202(a) states the following:

For purposes of implementing the federal Race to the Top program established by Sections 14005 and 14006 of Title XIV of the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), the governing board of a school district, county superintendent of schools, or the governing body of a charter school or its equivalent, *shall implement*, for any school identified by the Superintendent as persistently lowest-achieving pursuant to subdivision (b) of Section 53200, unless the Superintendent and the state board determines, to the extent allowable under federal law, that the school has implemented a reform within the last two years that conforms to the requirements of the interventions required by the Race to the Top program and is showing significant progress, one of the following four interventions for turning around persistently lowest-achieving schools as described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009:

- (1) The turnaround model.
- (2) The restart model.
- (3) School closure.
- (4) The transformational model. (Emphasis added.)

Before the school district selects one of the four intervention models, the district is required by section 53202(b) to hold at least two public hearings to seek input from staff, parents, and the community. Section 53202(b) states the following:

Prior to the governing board meeting to select one of the four interventions described in subdivision (a), the governing board of a school district, county superintendent of schools, or the governing body of a charter school or its equivalent, with one or more persistently lowest-achieving schools *shall hold at least two public hearings* to notify staff, parents and the community of the designation and to seek input from staff, parents, and the community regarding the option or options most suitable for the applicable school or schools in its jurisdiction. At least one of those public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest-achieving. (Emphasis added.)

The Commission finds that section 53202(a) and (b) impose a state mandated new program or higher level of service on school districts that have schools identified by the SPI as a persistently lowest-achieving school to select and implement one of the four intervention models identified in the federal RTTT program and, prior to the governing board meeting to select of one of the four intervention models, to hold at least two public hearings as specified in section 53202(b).

The Commission further finds that these requirements are new and provide a service to the public. Existing federal law, under Title 1 of NCLB, does require corrective action, in the form of the intervention models described above, as a condition of accepting federal grant funding under NCLB.<sup>80</sup> Schools not accepting Title I funding, however, were under no obligation to implement school improvement.<sup>81</sup> In addition, under prior state law, schools identified as having failed to meet their API and scoring under the 50th percentile on the API were invited to participate in the Immediate Intervention/Underperforming Schools Program. Once enrolled in the program, school districts were required to implement measures to meet academic improvement targets.<sup>82</sup> The requirements of this prior law, however, are not mandated by the state. As the court ruled in *Department of Finance v. Commission on State Mandates (Kern High School Dist.)*, “if a school district elects to participate in ...any underlying *voluntary* program, the district’s obligation to comply with [the program] does not constitute a reimbursable state mandate.”<sup>83</sup> Thus, schools participating in the state school improvement program in place prior to the enactment of Education Code section 53202 did so voluntarily.

<sup>80</sup> NCLB, 20 U.S.C. section 6316(c)(7)(10) requires schools identified as not meeting adequate yearly academic progress take corrective action.

<sup>81</sup> Education Code sections 52053, added by Statutes 1999-2000 1<sup>st</sup> Extraordinary Session, chapter 3, § 1 (S.B.1), established a voluntary program known as the Immediate Intervention/Underperforming Schools Program. 20 U.S.C. section 6311.

<sup>82</sup> Education Code section 52055.

<sup>83</sup> *Kern High School Dist., supra*, 30 Cal.4<sup>th</sup> 727, 742.

In *Hayes v. Commission on State Mandates*, the court addressed the issue of the state imposing new or increased requirements on local agencies in order to implement a federal program. The court concluded that when a state “freely chose to impose the costs upon a local agency as a means of implementing a federal program then the costs are the result of a reimbursable state mandate regardless of whether the costs were imposed upon the state by the federal government.” Here, the state has enacted a school intervention program that incorporates selection criteria from the federal RTTT; a federal competitive grant program. School district participation in the federal grant program is voluntary and not mandated by federal law.

By contrast, Education Code section 53202(a) and (b) imposes a state-mandated new program or higher level of service upon schools identified as persistently lowest-achieving pursuant to section 53201, regardless of whether the school participates in the federal RTTT application process, is receiving grant funds under Title I of NCLB, or is voluntarily participating in school improvement pursuant to Education Code section 52053. The requirement that persistently lowest-achieving schools must implement one of four possible intervention models (turnaround, restart, school closure, or transformation) creates a new program mandated by the state. In addition, the requirement to hold at least two public hearings before implementation of an intervention model is not found in prior law. These activities provide a service to the public since they are required to implement the federal RTTT competitive grant program in order to improve academic achievement.

Section 53202(c), however, does not impose any state-mandated activities on school districts. Section 53202(c) provides authority for a persistently lowest-achieving school implementing the turnaround or transformational model to participate in a school-to-school partnership program by working with a mentor school that has successfully transitioned from a low-achieving to a higher-achieving school. Section 53202(c) states the following:

In addition to meeting the requirements in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009, a persistently lowest-achieving school implementing the turnaround or transformational model *may* participate in the school-to-school partnership program by working with a mentor school that has successfully transitioned from a low-achieving school to a higher-achieving school.

- (1) For purposes of this article, a mentor school is a school that meets either of the following:
  - (A) The school has exited Program Improvement pursuant to the No Child Left Behind Act.
  - (B) The school has increased, in the statewide rankings based upon the Academic Performance Index, by two or more deciles over the last five years, using the most recent data available.
- (2) The principal and, at the discretion of the principal, the staff of a mentor school shall provide guidance to a lowest-achieving school to develop a reform plan for the school using the required elements of the turnaround or transformation model, and provide guidance and advice on how the mentor school was able to transform the culture of the

school from low-achieving to higher-achieving and how that transformation could be replicated at the school implementing a turnaround or transformational model.

- (3) To the extent federal funds are made available for this purpose pursuant to subdivision (c) of Section 53101, the mentor school shall receive funds for serving as the mentor school. As a condition of receipt of funds, the principal and, at the principal's discretion, the staff, of a mentor school shall meet regularly with the assigned persistently lowest-achieving school for a period of at least three years. (Emphasis added.)

While section 53202 requires a school district that has a persistently lowest-achieving school in the district to select and implement an intervention model, the statute does not require the school district or school site to participate in the school-to-school partnership, or require the higher-achieving school to provide guidance. The plain language of section 53202(c) authorizes, but does not require, these activities.

Accordingly, the Commission finds that Education Code section 53202(a) and (b) (Stats. 2009-2010, 5th Ex. Sess., c. 2 (SBX5 1), § 8) imposes a state-mandated new program or higher level of service, beginning April 12, 2010, on school districts that receive notice that a school or schools within the district have been identified by the SPI as persistently lowest-achieving pursuant to section 53200(b), for the following activities:

- Hold at least two public hearings for each school identified as a persistently lowest-achieving school to notify staff, parents, and the community of the designation and to seek input from staff, parents, and the community regarding the option or options most suitable for the applicable school or schools in its jurisdiction. At least one of the public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest-achieving.
- Conduct a meeting of the governing board to select one of the four interventions for turning around the identified persistently lowest-achieving school or schools as described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009:
  - (1) The turnaround model.
  - (2) The restart model.
  - (3) School closure.
  - (4) The transformational model.
- Implement one of the four intervention models for turning around the identified persistently lowest-achieving school or schools.

However, participating in a school-to-school partnership program by working with a mentor school that has successfully transitioned from a low-achieving to a higher-achieving school pursuant to Education Code section 53202(c) is not mandated by the state.

- e) Education Code section 53203, requiring regional consortia to aid in school improvement, does not impose a state-mandated activity on school districts.

Education Code section 53203 requires the regional consortia authorized under Education Code section 53203, in collaboration with CDE, to provide technical assistance and support, as specified in the statute, to school districts with one or more persistently lowest-achieving schools to assist in the implementation of intervention methods adopted by the district from funds obtained in the federal RTTT competitive grant program. Education Code section 53203 states the following:

- (a) The regional consortia authorized under Section 52059, in collaboration with the department, from funds provided for this purpose pursuant to subdivision (c) of Section 53101, shall provide, at a minimum, technical assistance and support to local educational agencies with one or more persistently lowest-achieving schools to assist with the implementation of the duties specified for any of the four interventions for persistently lowest-achieving schools pursuant to Section 53202.
- (b) Funds for the regional consortia shall be distributed based on the number of persistently lowest-achieving schools identified pursuant to this section and the pupil enrollment of these schools.
- (c) It is the intent of the Legislature that the regional consortia coordinate the duties described in subdivision (a) with the duties performed pursuant to Section 52059 as it relates to schools and districts identified in program improvement pursuant to the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).
- (d) The areas of technical assistance and support pursuant to this section may include, but are not limited to, any of the following:
  - (1) Identifying strategies that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the pupils at the school, including financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions.
  - (2) Identifying strategies that provide increased instructional time.
  - (3) Implementing any of the professional development activities authorized in the state's plan or application submitted for the federal Race to the Top program.
  - (4) Developing a new governance structure that may include the establishment of a new turnaround office, located within the local educational agency or the department, that a school implementing the turnaround model will report to.
  - (5) Developing social-emotional and community-oriented services, including strategies for parental involvement and services that can be located at the schoolsite.
  - (6) Identifying, reviewing, and recommending quality charter school operators, charter management organizations, or education management organizations that can operate a persistently lowest-achieving school.

- (7) Identifying higher-achieving schools in the school district, including charter schools, to relocate pupils attending a school that is scheduled for closure.
- (8) Developing, in consultation with teachers and principals, a rigorous, transparent, and equitable evaluation system for teachers and principals that includes the use of pupil growth data and other factors such as multiple observation-based assessments that all schools implementing the turnaround or transformation model may use.
- (9) Identifying strategies to identify and reward school leaders, teachers, and other staff who, in implementing the transformation model, have increased pupil achievement and high school graduation rates and have identified and removed those, who, after ample opportunities, have been provided for them to improve their professional practice, have not done so.
- (10) Identifying and approving mentor schools pursuant to subdivision (c) of Section 53202. The regional consortia shall first seek eligible mentor schools located within the district of each of the schools implementing the turnaround or transformation model.
- (11) Consistent with the collective bargaining agreement, assisting a local educational agency in doing any of the following:
  - (A) Meeting federal guidelines under Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the federal Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009, which encourages the state to ensure that persistently lowest-achieving schools are not required to accept a teacher without mutual consent of the teacher and principal, regardless of the teacher's seniority.
  - (B) Implementing schoolsite-based teacher hiring decisions.
  - (C) Giving persistently lowest-achieving schools first priority in selecting from the qualified district applicant pool, among those teachers who have specifically applied to work at the school.

The Commission finds that Education Code section 53203 does not impose a state-mandated program on school districts. The code section adds requirements to the regional consortia established under Education Code section 52059, which created regional consortia as part of the grant fund requirements of NCLB. Section 52059 requires CDE to establish a statewide system of intensive and sustained support and technical assistance for schools identified as being in need of improvement pursuant to NCLB (20 U.S.C. section 6316). The system developed in accordance with section 53209 “shall consist of regional consortia as well as district assistance and intervention teams and other technical assistance providers.”<sup>84</sup> While the CDE is required to establish the statewide system of school support, nothing in the plain language of the section requires local school districts to participate in the regional consortia or intervention team. Section

<sup>84</sup> Education Code section 52059(a).



53203 takes the existing regional consortia, whose participation at the local district level is voluntary, and adds requirements for technical aid and assistance in the RTTT program for persistently lowest-achieving schools. As part of the federal RTTT application process, sixteen school districts signed letters of intent to participate in the regional consortia early learning challenge.<sup>85</sup>

Because participation in the regional consortia by school districts is voluntary, section 53203 does not impose any state-mandated activities upon school districts.<sup>86</sup>

**3. Education Code sections 53300, and 53301 governing the Parent Empowerment Act, impose a state-mandated new program or higher level of service on school districts, however, section 53303 does not impose any new activities on school districts and so does not impose a state-mandated new program or higher level of service.**

The Parent Empowerment Act creates a petition process by which parents of students in a school not identified as persistently lowest-achieving, but subject to corrective action under Title I of NCLB, may petition the governing school district to implement one of the four intervention models described in Education Code section 53202. NCLB and the federal RTTT do not have a parent petition process as part of the Title I grant funding or the RTTT grant criteria. Under the RTTT selection criteria, states are judged on their “comprehensive approach to educational reform,” but no specific parental component is identified.

Education Code section 53300 allows parents to petition a school to implement an intervention for schools that are not identified as persistently low-achieving, but are subject to corrective action under NCLB, fail to make adequate yearly progress, and have an API score of less than 800. Section 53300 provides as follows:

For any school not identified as a persistently lowest-achieving school under Section 53201 which, after one full school year, is subject to corrective action pursuant to paragraph (7) of Section 1116(b) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and continues to fail to make adequate yearly progress, and has an Academic Performance Index score of less than 800, and where at least one-half of the parents or legal guardians of pupils attending the school, or a combination of at least one-half of the parents or legal guardians of pupils attending the school and the elementary or middle schools that normally matriculate into a middle or high school, as applicable, sign a petition requesting the local educational agency to implement one or more of the four interventions identified pursuant to paragraphs (1) to (4), inclusive of subdivision (a) of Section 53202 or the federally mandated alternative governance arrangement pursuant to Section 6316(b)(8)(B)(v) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.), the local educational agency shall implement the option requested by the parents unless, in a regularly scheduled public hearing, the local educational agency makes a finding in writing

<sup>85</sup> California Department of Education application for RTTT funding application signed by Governor Brown September 2011.

<sup>86</sup> *Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4<sup>th</sup> 727, 742.

stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options described in this section it will implement in the subsequent school year consistent with requirements specified in federal regulations and guidelines for schools subject to restructuring under Section 1116(b)(8) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and regulations and guidelines for the four interventions.

The plain language of Education Code section 53300 requires a school, following a receipt of a petition filed by parents, to implement the intervention option requested by the parents unless, in a regularly scheduled public hearing, the school makes a finding in writing stating the reason it cannot implement the specific recommended option and, instead, designates in writing which of the other options described in this section it will implement in the subsequent school year. The option selected must be consistent with requirements specified in federal regulations and guidelines for schools subject to restructuring under section 1116(b)(8) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and regulations and guidelines for the four interventions. These activities are not required, however, if the petition request is filed for reasons other than improving academic achievement or pupil safety. Education Code section 53303 states: “A local educational agency shall not be required to implement the option requested by the parent petition if the request is for reasons other than improving academic achievement or pupil safety.”

Education Code section 53301 also requires a school district to notify the SPI and SBE upon receipt of a petition and the district’s final disposition of the matter as follows:

- (a) The local educational agency shall notify the Superintendent and the state board upon receipt of a petition under Section 53300 and upon its final disposition of that petition.
- (b) If the local educational agency indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the local educational agency shall notify the Superintendent and the state board that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in the federally mandated state plan under Section 1111(b)(2) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.).

These requirements are new and provide a service to the public with the goal of improving academic success.

Accordingly, the Commission finds that Education Code sections 53300 and 53301 (Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 2) mandate a new program or higher level of service on school districts, beginning April 12, 2010, to perform the following activities upon receipt of a petition, signed by the number of parents specified in section 53300 and for the purpose of improving academic achievement or pupil safety, requesting the implementation of one or more of the four intervention models described in Education Code section 53202 for a school that is not identified as a persistently lowest-achieving school, but is subject to corrective action pursuant to NCLB, continues to fail to make adequate yearly progress, and has an API score of less than 800:

- Implement the intervention model requested by parents unless, in a regularly scheduled public hearing, the school district makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options it will implement in the subsequent school year consistent with the requirements specified in federal regulations and guidelines.
- Notify the SPI and SBE of the receipt of a petition and the final disposition of the petition. If the school district indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the school district shall notify the SPI and SBE that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in NCLB, 20 U.S.C. section 6301 et seq.

Section 53302, which was not pled in this test claim, limits the number of schools subject to the petition process, based upon the number of notices provided to the SPI and SBE, to 75 schools. Additionally, as stated above, section 53303 limits the requirement to implement the requested option to where the petition is filed for the purpose of improving academic achievement or pupil safety. Since section 53303 imposes no requirements on school districts, the Commission finds that it does not impose a new program or higher level of service.

**4. Education Code sections 48354, 48356, and 48357 and California Code of Regulations, title 5, section 4702, which govern the Open Enrollment Act, impose a state-mandated new program or higher level of service on school districts.**

As part of the additions to the Education Code enacted to compete successfully for federal RTTT grant funds, the Legislature enacted the Open Enrollment Act; Education Code sections 48350-48361.<sup>87</sup> Under the Act, a school district that has been identified on a list known as the Open Enrollment List is required to notify parents of the option for a student to transfer to a higher-achieving school outside their school district of residence. The stated purpose of the Open Enrollment Act is to improve pupil achievement in accordance with the regulations and guidelines for the federal RTTT fund and to enhance parental choice in education by providing options to pupils to enroll in public schools throughout the state without regard to the residence of their parents.<sup>88</sup> Claimant alleges that sections 48353-48361 impose a reimbursable new program or higher level of service on school districts.

The process starts with Education Code section 48352, which requires the SPI to identify schools as low-achieving by creating a list of 1000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-2009 school year. The SPI is required to ensure that no more than 10 percent of a district's schools are on the list. Court, community, community day schools, and charter schools shall not be on the list.

Education Code section 48354(b)(1) and section 4702(a) of the title 5 regulations then require the school district that receives notice that one or more of its schools are on the list created by the

<sup>87</sup> Added by Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, chapter 3 (S.B.4) § 1, effective April 12, 2010.

<sup>88</sup> Education Code section 48351.

SPI, to provide notice to parents and guardians of the option to transfer to another public school served by the school district of residence or another school district. Education Code section 48354(b)(1), which became effective on April 12, 2010, states that “the district of residence shall provide the parents and guardians of all pupils enrolled in a school determined [to be low-achieving] with notice of the option to transfer to another public school served by the district of residence or another school district.” Section 4702(a) of the regulations was adopted as an emergency regulation effective in August 2010 to implement the notice requirement and states the following:

The district of residence shall notify the parent(s) or guardian(s) of each pupil enrolled in a school included on the most recent Open Enrollment List of the option to transfer. This notice shall be provided on the first day of instruction; if the district has not been notified of whether its school(s) is on the list, the notification shall be provided no later than 14 calendar days after the Open Enrollment List is posted on the CDE's Web site at <http://www.cde.ca.gov/>.

Pursuant to Education Code section 48354(a) and (b), the parent of a pupil enrolled in a low-achieving school on the list may submit an application for the pupil to transfer to a school, other than the school in which the parent of the pupil resides, prior to January 1 of the school year preceding the school year for which the pupil is requesting to transfer.

Pursuant to Education Code section 48355, the school district of residence and the school district of enrollment may prohibit the transfer of pupils under the Act if the governing board of the district determines that the transfer would negatively impact a court-ordered or voluntary desegregation plan of the district, or the racial and ethnic balance of the district, provided that any policy adopted pursuant to this statute is consistent with federal and state law. Section 48356(a) also authorizes a school district of enrollment to adopt standards for acceptance and rejection of applications pursuant to the Open Enrollment Act, which may include consideration of the capacity of a program, class, grade level, school building, or adverse financial impact. The standards shall not consider a pupil's previous academic achievement, physical condition, proficiency in the English language, family income, or other individual characteristics. In addition, a school district of residence is prohibited by section 48355 from adopting any policies that prevent or discourage pupils from applying for a transfer to a school district of enrollment. All communications to parents by districts shall be factually accurate and not target individual parents or guardians or residential neighborhoods on the basis of a child's actual or perceived academic or athletic performance.

Section 48356(d) requires the school district of enrollment to ensure that pupils who transfer pursuant to the Open Enrollment Act are enrolled in a school with a higher API than the school in which the pupil was previously enrolled. Section 48356(d) also requires the school district of enrollment to ensure that pupils are selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, physical condition, proficiency in the English language, family income, or other individual characteristics. Pupils applying for a transfer shall be assigned priority for approval as follows: first priority for the siblings of children who already attend the desired school; second priority for pupils transferring from a program improvement school ranked in decile 1 on the API; and if the number of pupils requesting a particular school exceeds the number

of spaces available at that school, a lottery shall be conducted in the group priority order to select pupils at random. Pursuant to section 48356(e), the initial application of a pupil for transfer to a school within the school district of enrollment shall not be approved if the transfer would require the displacement from the desired school of any other pupil who resides within the attendance area of that school or is currently enrolled in that school. In this respect, section 48354(b)(6) requires the school district of enrollment to establish a period of time for resident pupil enrollment before accepting transfer applications under this Act.

Within 60 days of receiving an application from a parent or guardian for transfer, section 48357 requires the school district of enrollment to notify the applicant parent and the school district of residence in writing whether the application has been accepted or rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection. If a pupil's transfer is accepted, the school district of enrollment is required by section 48358 to accept credits toward graduation that were awarded to the pupil by another school district and shall graduate the pupil if that pupil meets the graduation requirements of the school district of enrollment.

Each school district is encouraged by section 48359 to keep an accounting of all requests made for alternative attendance under this Act and records of the disposition of those requests.

Education Code section 48359.5 describes the apportionment of state funds for average daily attendance for basic aid schools and how those funds shall be credited to a school district of enrollment that accepts a transfer pupil. Section 48360 requires the SPI to contract for an independent evaluation of the open enrollment program from federal funds appropriated. And, section 48361 states the following: "No exercise of discretion of enrollment in its administration of this article shall be overturned absent a finding as designated by a court of competent jurisdiction that the district governing board acted in an arbitrary and capricious manner."

Based on the plain language of these statutes and regulation, the Commission finds that the test claim statutes and regulation require school districts to perform the following activities:

- The school district of residence that receives notice that one or more of its schools are low-achieving and on the list created by the SPI, shall notify the parent(s) or guardian(s) of each pupil enrolled in a school included on the most recent Open Enrollment List of the option to transfer to another public school served by the district of residence or another school district. This notice shall be provided on the first day of instruction. If the district has not been notified of whether its school(s) is on the list, the notification shall be provided no later than 14 calendar days after the Open Enrollment List is posted on the CDE's Web site at <http://www.cde.ca.gov/>. (Ed. Code, § 48354(b)(1); Cal. Code Regs., tit. 2, § 4702(a).)
- Upon receipt of a transfer application, the school district of enrollment shall ensure that pupils who transfer pursuant to the Open Enrollment Act are enrolled in a school with a higher API than the school in which the pupil was previously enrolled, and are selected through a random, nonbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, physical condition, proficiency in the English language, family income, or other individual characteristics. If the number of pupils requesting a particular school exceeds the number

of spaces available at that school, a lottery shall be conducted in the group priority order in section 48356(d)(1) and (2) to select pupils at random. (Ed. Code, § 48356(d).)

- Within 60 days of receiving an application from a parent or guardian for transfer, the school district of enrollment shall notify the applicant parent and the school district of residence in writing whether the application has been accepted or rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection. (Ed. Code, § 48357.)
- If a pupil's transfer is accepted, the school district of enrollment shall accept credits toward graduation that were awarded to the pupil by another school district and shall graduate the pupil if that pupil meets the graduation requirements of the school district of enrollment. (Ed. Code, § 48358.)

In *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4<sup>th</sup> 1593, the court framed the issue of state imposition of a federal program upon local agencies as whether the state “freely chose to impose costs upon a local agency as a means of implementing a federal program.”<sup>89</sup> The court concluded that, if a state chose to impose costs upon a local government, those costs are mandated by the state.<sup>90</sup> Here, the state enacted the requirements bulleted above in order to compete successfully in a voluntary competitive federal RTTT grant program. The Legislature stated that its purpose in enacting the Open Enrollment Act was to meet the federal RTTT criteria.

All other code sections and activities in the Open Enrollment Act that are not identified in the bullets above, are either required of the state or are performed at the discretion of the school district (including the authority to adopt standards for acceptance and rejection of applications under the Open Enrollment Act, and the encouragement to keep an accounting of all requests made for alternative attendance and records of the disposition of those requests) and, thus, do not impose any state-mandated activities on school districts.

In addition, the first three bulleted activities constitute a new program or higher level of service. These activities are newly required by the state and provide a service to the public to carry out the States' purpose of the Act to improve pupil achievement in accordance with the regulations and guidelines for the federal RTTT fund and to enhance parental choice in education by providing options to pupils to enroll in public schools throughout the state without regard to the residence of their parents.<sup>91</sup>

However, the activities in the last bullet from Education Code section 48358 -- requiring the school district of enrollment to accept credits toward graduation that were awarded to the pupil by another school district and to graduate the pupil if that pupil meets the graduation requirements of the school district of enrollment -- are not new and do not provide a higher level of service to the public. Under existing law, minimum graduation standards for English, mathematics, science, social studies, physical education, and visual or performing arts or foreign language, are established by the state for high school graduation. In addition to those courses mandated by the

<sup>89</sup> *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4<sup>th</sup>1564, 1593.

<sup>90</sup> *Id.*

<sup>91</sup> Education Code section 48351.

state, school districts have the authority under existing law to adopt other coursework requirements for graduation.<sup>92</sup> Thus, requiring the district of enrollment to graduate a pupil if he or she meets the graduation requirements of the district, is not new. In addition, requiring the school district of enrollment to accept credits toward graduation that were awarded to the pupil by another school district establishes a lower level of service for the district of enrollment. By accepting credits for courses already taken by the pupil at the district of residence, the number of credits needed to graduate and the number of courses needed to be provided by the district of enrollment is reduced. Thus, Education Code section 48358 does not impose a new program or higher level of service on school districts.

Accordingly, the Commission finds that the following activities required by Education Code sections 48354, 48356, and 48357 (Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 1) and California Code of Regulations, title 5, section 4702 (Register 2010, No. 32), constitute state-mandated new programs or higher levels of service on school districts beginning April 12, 2010:

- (1) The school district of residence that receives notice that one or more of its schools are low-achieving and on the list created by the SPI, shall notify the parent(s) or guardian(s) of each pupil enrolled in a school included on the most recent Open Enrollment List of the option to transfer to another public school served by the district of residence or another school district. This notice shall be provided on the first day of instruction; or
- (2) If the district has not been notified of whether its school(s) is on the list, the notification shall be provided no later than 14 calendar days after the Open Enrollment List is posted on the CDE's Web site at <http://www.cde.ca.gov/>. (Ed. Code, § 48354(b)(1); Cal. Code Regs., tit. 2, § 4702(a).)
- Upon receipt of a transfer application, the school district of enrollment shall ensure that pupils who transfer pursuant to the Open Enrollment Act are enrolled in a school with a higher API than the school in which the pupil was previously enrolled, and are selected through a random, nonbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, physical condition, proficiency in the English language, family income, or other individual characteristics. If the number of pupils requesting a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order in section 48356(d)(1) and (2) to select pupils at random. (Ed. Code, § 48356(d).)
- Within 60 days of receiving an application from a parent or guardian for transfer, the school district of enrollment shall notify the applicant parent and the school district of residence in writing whether the application has been accepted or rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection. (Ed. Code, § 48357.)

<sup>92</sup> Education Code section 51225.3.

**C. Do the new mandated activities impose costs mandated by the state within the meaning of article XIII B, section 6 and Government Code section 17514?**

Government Code section 17514 provides that “[c]osts mandated by the state’ means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.” Government Code section 17564 provides that “[n]o claim shall be made pursuant to Sections 17551, 17561, or 17573, nor shall any payment be made on claims submitted pursuant to Sections 17551, or 17561, or pursuant to a legislative determination under Section 17573, unless these claims exceed one thousand dollars.”

Claimant alleges increased costs mandated by the state in the amount of \$450,000 for fourteen schools in the district impacted by the test claim statutes, which exceeds the \$1000 minimum claim amount articulated in Government Code section 17564(a).

Government Code section 17556(e) states that there are no costs mandated by the state if additional revenue specifically intended to fund the costs of the mandated activities, in an amount sufficient to fund the cost of the state-mandated activities, has been appropriated in a Budget Act or other bill. There is no evidence that additional revenue has been appropriated specifically to fund the costs of the mandated activities in this claim. Thus, Government Code section 17556(e) does not apply to deny this claim.

Accordingly, the evidence in the record supports the finding that the claimant has incurred increased costs mandated by the state pursuant to Government Code section 17514. However, to the extent a district receives any federal funding or grant funding and applies those funds to the mandated activities, those funds are required to be identified as offsetting revenue and deducted from the costs claimed by the district. Article XIII B, section 6, does not require reimbursement when the costs are for expenses that are recoverable from sources other than tax revenue.<sup>93</sup>

**V. CONCLUSION**

The Commission concludes that the test claim statutes and regulation identified below impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, beginning April 12, 2010.

<sup>93</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 486-487. For example, the 2010-2011 Budget Act (Stats. 2010, ch. 712), line item 6110-180-0890, provision 5, allocates federal ARRA competitive grant funding to CDE to award those eligible districts that commit to using education data and technology to improve college and career readiness or the high school graduation rate. CDE shall give first priority to applicants that commit to acquiring, maintaining, and using data, to meet one or both of these objectives. Approved applicants may use competitive grant funds to purchase digital equipment and materials to help participants meet the program’s objective. To the extent a district receives this grant funding and applies the grant funds to the costs of implementing one of the four intervention models for turning around an identified persistently lowest-achieving school, then those grant funds are required to be identified as offsetting revenue.



1. Race to the Top

School districts that receive notice that a school or schools within the district have been identified by the SPI as persistently lowest-achieving pursuant to Education Code section 53200(b) are required to perform the following activities:

- a) Hold at least two public hearings for each school identified as a persistently lowest-achieving school to notify staff, parents, and the community of the designation and to seek input from staff, parents, and the community regarding the option or options most suitable for the applicable school or schools in its jurisdiction. At least one of the public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest-achieving. (Ed. Code, § 53202(b), Stats. 2009-2010, 5th Ex. Sess., c. 2 (SBX5 1), § 8.)
- b) Conduct a meeting of the governing board to select one of the four interventions for turning around the identified persistently lowest-achieving school or schools as described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Selection Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009:
  - (5) The turnaround model.
  - (6) The restart model.
  - (7) School closure.
  - (8) The transformational model. (Ed. Code, § 53202(a), Stats. 2009-2010, 5th Ex. Sess., c. 2 (SBX5 1), § 8.)
- c) Implement one of the four intervention models for turning around the identified persistently lowest-achieving school or schools. (Ed. Code, § 53202(a), Stats. 2009-2010, 5th Ex. Sess., c. 2 (SBX5 1), § 8.)

However, participating in a school-to-school partnership program by working with a mentor school that has successfully transitioned from a low-achieving to a higher-achieving school pursuant to Education Code section 53202(c) is not mandated by the state.

2. Parent Empowerment Act

School districts that receive a petition, signed by the number of parents specified in Education Code section 53300 and for the purpose of improving academic achievement or pupil safety, requesting the implementation of one or more of the four intervention models described in Education Code section 53202 for a school that is not identified as a persistently lowest-achieving school, but is subject to corrective action pursuant to NCLB, continues to fail to make adequate yearly progress, and has an API score of less than 800, are required to perform the following activities:

- a) Implement the intervention model requested by parents unless, in a regularly scheduled public hearing, the school district makes a finding in writing stating the

reason it cannot implement the specific recommended option and instead designates in writing which of the other options it will implement in the subsequent school year consistent with the requirements specified in federal regulations and guidelines. (Ed. Code, § 53300, Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 2.)

- b) Notify the SPI and SBE of the receipt of a petition and the final disposition of the petition. If the school district indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the school district shall notify the SPI and SBE that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in NCLB, 20 U.S.C. section 6301 et seq. (Ed. Code, § 53301, Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 2.)

### 3. Open Enrollment Act

- a) (1) A school district of residence that receives notice that one or more of its schools are low-achieving and on the list created by the SPI, shall notify the parent(s) or guardian(s) of each pupil enrolled in a school included on the most recent Open Enrollment List of the option to transfer to another public school served by the district of residence or another school district. This notice shall be provided on the first day of instruction; or  
  
(2) If the district has not been notified of whether its school(s) is on the list, the notification shall be provided no later than 14 calendar days after the Open Enrollment List is posted on the CDE's Web site at <http://www.cde.ca.gov/>. (Ed. Code, § 48354(b)(1), Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 1; Cal. Code Regs., tit. 2, § 4702(a) (Register 2010, No. 32).)
- b) Upon receipt of a transfer application, the school district of enrollment shall ensure that pupils who transfer pursuant to the Open Enrollment Act are enrolled in a school with a higher API than the school in which the pupil was previously enrolled, and are selected through a random, nonbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, physical condition, proficiency in the English language, family income, or other individual characteristics. If the number of pupils requesting a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order in section 48356(d)(1) and (2) to select pupils at random. (Ed. Code, § 48356(d), Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 1.)
- c) Within 60 days of receiving an application from a parent or guardian for transfer, the school district of enrollment shall notify the applicant parent and the school district of residence in writing whether the application has been accepted or rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection. (Ed. Code, § 48357, Stats. 2009-2010, 5th Ex. Sess., c. 3 (SBX5 4), § 1.)

All other statutes and activities pled are denied.

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Solano and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On February 6, 2014, I served the:

**Draft Staff Analysis and Proposed Statement of Decision, Schedule for Comments, and Notice of Hearing**

*Race to the Top*, 10-TC-06

Education Code Sections 48353 et al.

Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapters 2 and 3, SBX5 1 and SBX5 4 et al.

California Code of Regulations, Title 5, Section 4702 (Register 2010, No. 32)

Twin Rivers Unified School District, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 6, 2014 at Sacramento, California.



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Heidi J. Palchik  
Commission on State Mandates  
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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 1/28/14

**Claim Number:** 10-TC-06

**Matter:** Race to the Top

**Claimant:** Twin Rivers Unified School District

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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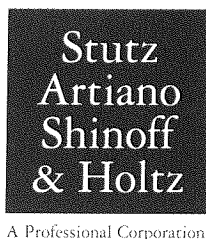
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## Exhibit D

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**RECEIVED**

February 27, 2014

**Commission on  
State Mandates**

February 27, 2014

Heather Halsey  
Executive Director  
Commission on State Mandates  
980 9th Street, Suite 300  
Sacramento, CA 95814

**Re: Race to the Top 10-TC-06**  
Twin Rivers Unified School District  
Education Code Sections 48353 *et. al.*  
Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapters 2 and 3,  
SBX5 1 and SBX5 4 *et. al.*  
California Code of Regulations, Title 5, Section 4702 (Register 2010, No. 32)

Dear Ms. Halsey:

The following comments are submitted in response to the Commission Draft Staff Analysis and Proposed Statement of Decision dated February 6, 2014.

**1. INTRODUCTION.**

**(A) Race To The Top (RTTT)**

Once a school is identified by the state as a persistently lowest-achieving school, the governing school district is required to hold at least two public hearings to notify staff, parents, and the community of the designation and to seek input regarding the options for implementing one of the four intervention models for turning around the school. These models include the following:

- Turn around model. This includes replacing the principal, screening all staff and rehiring no more than 50 percent of the existing staff and adopting a new governance structure.
- Restart model. This model includes converting to a charter school or hiring an education management company to run the school.
- School closure. This model envisions closing the school down and sending the students to a higher-achieving school.

**Race to the Top 10-TC-06**  
Twin Rivers Unified School District  
Education Code Sections 48353 et. al.

- Transformation model. This model involves specific interventions including the following: developing and increasing teacher and school leader effectiveness by replacing the principal and using rigorous and equitable evaluation systems for teachers and principals; identifying and rewarding school leaders, teachers, and staff, who have increased student achievement and graduation rates, and identifying and removing those who have not improved their professional practice; providing staff with professional development; and implementing strategies for financial incentives, increased opportunities for promotion and career growth, and retaining staff with the skills necessary to meet the needs of the students. The district is then required to select an intervention model and implement that model for an identified persistently lowest-achieving school.

(B) Parent Empowerment Act

The Parent Empowerment Act allows parents to petition a school to implement one of the RTTT intervention models described above to improve academic achievement or pupil safety. Among other requirements, this test claim establishes an open enrollment program, which authorizes a pupil enrolled in a low achieving school, as defined, to attend any higher achieving school in the state; and establishes a Parent Empowerment Program that authorizes parents of specified schools to sign a petition requiring a local educational agency (LEA) to implement a school intervention model, as specified.

(C) Open Enrollment Act

The Open Enrollment Act is intended to improve the academic achievement of pupils and to enhance parental choice in education by providing pupils enrolled in low-achieving schools with additional options to enroll in higher-achieving public schools throughout the state regardless of the pupil's residence. The Open Enrollment Act and Title 5, California Code of Regulations, section 4702 impose specified notice, enrollment and related requirements on school districts of residence and school districts of enrollment and grant authority to the districts to take specified actions in furtherance of the program.

**2. CLAIMANT HAS COMPLIED WITH TEST CLAIM REQUIREMENTS.**

Claimant, Twin Rivers Unified School District, filed the test claim on November 23, 2010. On December 22, 2010, Commission on State Mandates (Commission) staff deemed the filing complete and numbered it 10-TC-06.

Heather Halsey  
Executive Director  
Commission on State Mandates

February 27, 2014  
Page 3

**Race to the Top 10-TC-06**  
Twin Rivers Unified School District  
Education Code Sections 48353 et. al.

**3. EDUCATION CODE SECTION 53100 IMPOSES A NEW PROGRAM OR HIGHER LEVEL OF SERVICE.**

The DSA is misguided in concluding a reimbursable mandate does not exist for Education Code Section 53100. The plain reading of the language, section (b) states,

*"Participating local educational agencies shall enter into a memorandum of understanding, with the Superintendent and the President of the state board, that meets the requirements expressed in the Race to the Top guidelines and that is signed by as many as possible of each participating local educational agency's."*  
(emphasis added)

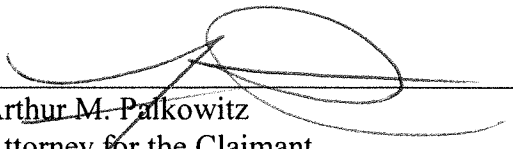
Whether the activity is based on the plain reading of the statute or a "downstream" activity, reimbursement is required as the public purpose is for improving academic achievement. In *San Diego Unified School District. v. Commission on State Mandates* (2004) 33 Cal.4th 859, "All hearing costs incurred by school district as result of mandatory actions related to expulsions of students for possession of firearm, at time relevant to mandamus proceeding initiated by district, constituted state-mandated "higher level of service" within meaning of state constitutional provision providing for reimbursement of local government for costs of "new program or higher level of service" imposed on local government by statute or state regulation, and thus were fully reimbursable; providing public schooling clearly constituted governmental function, enhancing safety of those who attended such schools constituted service to public, and mandatory expulsion provision did not implement federal law or regulation then extant."

**4. CONCLUSION**

Based on the test claim filed timely and complete, no state agency or other interested party filing a response to the test claim and no evidence to the contrary, the test claim statute is a reimbursable state mandated program.

**CERTIFICATION**

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or information and belief.

  
Arthur M. Palkowitz  
Attorney for the Claimant

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On February 28, 2014, I served the:

**Claimant Comments**

*Race to the Top*, 10-TC-06

Education Code Sections 48353 et al.

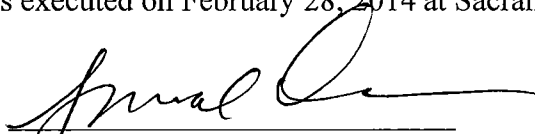
Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapters 2 and 3, SBX5 1 and SBX5 4 et al.

California Code of Regulations, Title 5, Section 4702 (Register 2010, No. 32)

Twin Rivers Unified School District, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 28, 2014 at Sacramento, California.



---

Lorenzo R. Duran Jr.

Commission on State Mandates

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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 1/28/14

**Claim Number:** 10-TC-06

**Matter:** Race to the Top

**Claimant:** Twin Rivers Unified School District

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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March 3, 2014

RECEIVED  
March 04, 2014  
Commission on  
State Mandates

**LATE FILING**

Ms. Heather Halsey  
Executive Director  
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980 Ninth Street, Suite 300  
Sacramento, CA 95814

Dear Ms. Halsey:

The Department of Finance (Finance) has reviewed the draft staff analysis and proposed statement of decision by the Commission on State Mandates (Commission) staff for the test claim 10-TC-06, submitted by Twin Rivers Unified School District and respectfully submits the following comments.

Many requirements of the Parent Empowerment Act, the Open Enrollment Act, and Race to the Top (RTTT) overlap with federal requirements of the Elementary and Secondary Education Act (ESEA) Title I, Program Improvement and School Improvement Grant (SIG). Therefore requirements identified by the Commission staff as state-mandated should be reduced to reflect the true higher level of service required by the state. Finance also identifies ESEA Title I and SIG funding as offsetting revenues for the state activities that overlap with federal law.

**1. Parent Empowerment and Open Enrollment, Education Code sections 53300; 48354(b)(1) and 48356(d)**

***A. Many requirements of the Parent Empowerment Act and the Open Enrollment Act are already required of schools in federal Program Improvement, therefore ESEA Title I funding is an offsetting fund source.***

Parent Empowerment Act

The draft analysis does not acknowledge the overlapping requirements of federal Title I Program Improvement with the Parent Empowerment Act that requires, upon a parent petition, to implement one or more of the four interventions pursuant to Education Code section 53202(a)(1)-(4)<sup>1</sup> or the federally-mandated alternative governance arrangement pursuant to Section 1116(b)(8)(B)(v) of the federal ESEA.

Though staff indicates that the ESEA does not have a parent petition process as part of the Title I grant funding, the schools that are eligible for parent petitions must be in corrective action pursuant to Education Code section 53300. Many of the intervention activities of the four models are duplicative of those required of schools in corrective action, and as schools continue to fail to make academic progress, are duplicative of those in restructuring status. Section 1116(b)(7)(C)(iv) of ESEA, requires that once a school is subject to corrective action, the local educational agency shall take at least one of a list of specified actions. Among those listed are: replacing school staff that are relevant to the failure to make adequate yearly progress;

<sup>1</sup> Turn around model; restart model; school closure; and transformation model.

instituting and fully implementing a new curriculum that is predicated on scientifically-based research and offers substantial promise of improving education achievement; and increasing class time. These corrective action interventions are all required of and consistent with the "turnaround model."

If a school continues to fail to make adequate yearly progress, the LEA shall establish an alternative governance structure pursuant to Section 1116(b)(8)(B) of ESEA. The LEA shall implement one of a list of alternative governance arrangements. Among them is reopening the school as a public charter school or entering into a contract with an entity, such as a private management company to operate the school which is consistent with the "restart model." Alternative governance pursuant to Section 1116(b)(8)(B)(v) of the ESEA also includes any other major restructuring of the school's governance arrangement that makes fundamental reforms to improve student academic achievement in the school which could apply to the four intervention models.

#### Open Enrollment Act

The activities that the draft staff analysis identifies as state-mandated programs related to the Open Enrollment Act do not take into consideration the public school choice requirements of the ESEA Title I [20 USC 6316(b)(E)].

Consistent with Section 1116(b)(1)(E) of the ESEA, the state Open Enrollment Act requires that on or before the first day of the school year, any district of residence identified by the State Department of Education as being a low-achieving school, shall provide the parents and guardians of all pupils with notification of the option to transfer to another public school. The extent to which schools are identified using federal criteria of low-achievement (which could overlap with state criteria), would reflect a requirement of federal law. Any other schools that are only identified by state criteria would reflect a requirement of the state. Thus, the increment that state law goes beyond federal law and imposes additional requirements reflects the true higher level of service required by the state.

In addition, federal regulations require that notifications sent to parents include information on how other schools compare in terms of academic achievement.<sup>2</sup> This federal requirement could reduce the workload required to fulfill the state requirement that the school district from which a student transfers, ensures that the student is transferring to a school with a higher Academic Performance Index score. Therefore, the increment that state law goes beyond federal law and imposes additional requirements reflects the true higher level of service required by the state.

Requirements identified by the Commission related to the Parent Empowerment Act and the Open Enrollment Act should be reduced to reflect the federal requirements already in place to reflect the true higher level of service required by the state. Also, federal Title I funding is an offsetting revenue source for the Parent Empowerment Act and the Open Enrollment Act because of the overlap in state and federal requirements. Schools that are eligible for school interventions pursuant to the Parent Empowerment Act are likely to be subject to corrective action and alternative governance practices as required by federal law. Further, notifications to parents with children in schools subject to corrective action are already required by federal law. As stated in the draft staff analysis, to the extent that a district receives any federal or grant

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<sup>2</sup> 34 Code of Federal Regulations 200.37 (b)(1)

funding and applies those funds to the mandated activities, those funds are required to be identified as offsetting revenue and deducted from the costs claimed by the district.<sup>3</sup>

**2. Race to the Top, Education Code section 53202(a) and (b)**

***A. Title I SIG is an offsetting revenue source for implementation of one of the four required intervention models for persistently lowest-achieving schools.***

Because the federal ESEA Title I SIG program has aligned school intervention requirements and definitions with RTTT, annual appropriations and one-time American Recovery and Reinvestment Act (ARRA) funds for SIG are offsetting revenues.

Both RTTT and SIG programs require the persistently lowest-achieving schools to implement one out of the same set of four intervention models. Therefore, if a school is identified by the State Department of Education as a persistently low-achieving school and required to implement a specified intervention model, the corresponding district or county would also be eligible to apply for a SIG. To the extent a school is awarded a SIG and that funding is used to implement an intervention model, those funds are required to be identified as offsetting revenue.

Funding for SIG is provided by an annual appropriation in the Budget Act in Item 6110-134-0890. The SIG program was also a recipient of ARRA funding. These appropriations, both ongoing and one-time, provide evidence that additional revenue has been appropriated to fund the costs of implementing specific interventions which have been identified by Commission staff as a state-mandated activity in this claim. Furthermore, the claimant has been awarded a portion of these offsetting revenues.<sup>4</sup>

The activities identified by Commission staff as imposing a state-mandated program with regard to the Parent Empowerment Act, the Open Enrollment Act, and RTTT, must be considered in the context of existing federal law to identify what is truly a state-imposed higher level of service. By applying identified offsetting revenues and accounting for federally mandated activities, it is questionable as to whether the test claim submitted by the claimant reaches the \$1,000 minimum claim amount that is required pursuant to Government Code section 17564(a).

Pursuant to section 1181.2, subdivision (c)(1)(E) of the California Code of Regulations, "documents that are e-filed with the Commission on State Mandates need not be otherwise served on persons that have provided an e-mail address for the mailing list."

If you have any questions regarding this letter, please contact Anthony Crawford, Principal Program Budget Analyst, at (916) 445-0328.

Sincerely,



Thomas Todd  
Assistant Program Budget Manager

---

<sup>3</sup> Commission on State Mandates, "Draft Staff Analysis and Proposed Statement of Decision," page 47.

<sup>4</sup> <http://www.cde.ca.gov/sp/sw/t1/sigregion3.asp>.

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On March 5, 2014, I served the:

**DOF Comments**

*Race to the Top*, 10-TC-06

Education Code Sections 48353 et al.

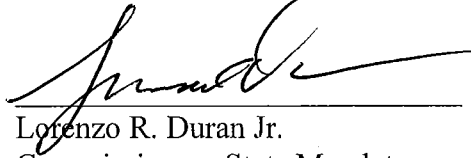
Statutes 2009-2010, 5<sup>th</sup> Extraordinary Session, Chapters 2 and 3, SBX5 1 and SBX5 4 et al.

California Code of Regulations, Title 5, Section 4702 (Register 2010, No. 32)

Twin Rivers Unified School District, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 5, 2014 at Sacramento, California.



Lorenzo R. Duran Jr.  
Commission on State Mandates  
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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 1/28/14

**Claim Number:** 10-TC-06

**Matter:** Race to the Top

**Claimant:** Twin Rivers Unified School District

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Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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Senate Appropriations Committee Fiscal Summary  
Senator Christine Kehoe, Chair

Exhibit F

SB 1 xxxxx (Romero)

Hearing Date: 11/03/2009  
Consultant: Dan Troy

Amended: 10/29/2009  
Policy Vote: ED 5-0

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**BILL SUMMARY:** SBX5 1, an urgency measure, would make several changes to law in an effort to make California more competitive for federal K-12 Race to the Top (RTTT) grants. Key changes proposed in the measure include clarifying that student-level data may be used for evaluating teachers and administrators for employment decisions; lifting the statewide cap on charter schools; allowing students in low-performing schools to apply for enrollment in other districts, as specified; identifying the lowest achieving 5 percent of low-performing schools and require the implementation of a renewal plan for those schools; providing clear authority for the Department of Education and the state's public postsecondary institutions to obtain quarterly wage data on students who have attended their systems; requiring the Governor, the Superintendent of Public Instruction, and the State Board of Education to develop a plan for turning around the lowest achieving 5 percent of low-performing schools as part of a Phase 1 application for RTTT funds; and requiring the convening of a task force for the purposes of developing standardized procedures for fiscal reporting and annual audits of charter schools.

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**Fiscal Impact (in thousands)**

<b>Major Provisions</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>Fund</b>
Evaluation	\$500 to \$1,000, prior to March of 2015			Federal**
Open Enrollment	Low millions, annually, depending on participation			General*
Renewal Efforts	Tens of millions, annually, depending on identification criteria			Federal**

\*Counts toward meeting the Proposition 98 minimum funding guarantee

\*\*Assumes sufficient federal RTTT funds are received and may be used for these purposes

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**STAFF COMMENTS: This bill meets the criteria for referral to the Suspense File.**

The federal American Recovery and Reinvestment Act (ARRA) authorizes K-12 education funding for states on both a formula basis and on a competitive basis. California is expected to receive over \$6 billion in formula-based grants. Additionally, ARRA has authorized over \$4.3 billion in funding for state-level incentive grants through the Race to the Top (RTTT) initiative.

## SBX5 1 (Romero)

In order to qualify for RTTT grants, states must meet specified eligibility requirements and develop a comprehensive plan for addressing the following four areas: high-quality standards and assessments, data systems that support instruction, effective teachers and principals, and support for low-performing schools. There are two award cycle phases, one in the winter and the second one likely in the spring of 2010. State applications will be rated based on their competitiveness in 19 specified areas. Given the state's population, a grant for California could be worth several hundred million dollars in one-time money. Ultimately, though, the amount of funding awarded to a state, if any, will be based on the quality of the plan, the number of states that submit competitive applications, and the number of awards that are ultimately distributed.

This bill would make explicit that the state's data systems (CALTIDES and CALPADS) may be used to evaluate teachers and administrators and for making employment decisions. SB 19 (Simitian, 2009) deleted a prohibition on using data for that purpose. If it is the author's intent to maintain the evaluation of teachers and administrators as a local rather than a state-level process, it may make sense to clarify that in the bill.

This bill would also extend until January 15, 2010 a deadline for a work group, convened by the Chief Information Officer, to produce a strategic plan to link K-20 education data systems. Further, this bill would clarify that the Department of Education and the state's public postsecondary institutions are authorized to receive employment wage data for individuals that attended their institutions as part of the development of a system that, among other things, would link education and workforce data.

This bill would lift the statutory cap on the state's charter schools, which started at 250 in the 1998-99 fiscal year, and is allowed to grow annually by 100. Lifting the cap on charter schools should not result in new operational costs, particularly as the cap is approximately 600 above the current number of operating charter schools.

**Staff notes**, however, that the RTTT guidance actually specifies increasing the supply of "high-quality" charter schools and indicates that states will be rated based, in part, on how well charters are monitored, reauthorized, and generally held accountable. Recent studies of the state's charter schools suggest their overall performance differs little from that of traditional public schools. It may be that reform of the state's reauthorization process would help weed out the charters that are not improving student achievement without impeding the schools that are demonstrating success.

In particular, one of the minimum standards for an authorizer to renew a charter school is a determination that the charter's performance is at least equal to the performance of other local schools. This would appear to give authorizers leeway to renew charters that are not realizing achievement gains. **Staff recommends** altering the process to disallow renewal for charters in year 5 of program improvement and to replace the lowest common denominator provision referenced above with one that requires charters to successfully document significant gains in multiple areas that may not be observed through API scores, such as an increase in the number of students taking statewide exams, increases in graduation rates, decreases in dropout rates, and other demonstrable improvements in student engagement. Further, current law

## SBX5 1 (Romero)

provides for no statutory renewal process for statewide benefit charters, which are approved through direct application to the State Board of Education. At a minimum state law should require renewal after five years, require schools to at least meet the standards of the initial approval, and ensure they are meeting federal accountability criteria.

This bill's provision for a task force led by the Fiscal Crisis Management and Assistance Team (FCMAT) to develop standardized processes for charter school audits and fiscal reporting by December of 2010 could help improve fiscal accountability and transparency. The accountability and transparency of operations would also be improved by specifying that charter school governing boards are subject to public meeting requirements and conflict of interest laws. At a minimum, **staff recommends** adopting language making clear that charter schools operate only for the benefit of the state's public school pupils and may use public education funds only for that purpose.

This bill would allow parents of pupils in schools that are under federal program improvement and are also ranked in deciles 1 through 3 of the Academic Performance Index (API) to submit a request to transfer to another school district, as specified. Districts would be required to notify parents of the right to transfer. Districts of enrollment (i.e., the receiving district) would be required to adopt standards for the acceptance or rejection of transfer applicants and would be able to deny transfers if the transfer would negatively impact court-ordered desegregation plans or the racial and ethnic balance of the district. Transferring pupils would not be allowed to displace resident pupils. The district of enrollment would need to notify applicants of the decision within 60 days and state the reason if the application is rejected. Costs of notification would likely range from \$900,000 to \$1.8 million, annually. The costs to districts of enrollment for adopting standards, reviewing applications, and notification of applicants could reach the low millions, annually, in costs, depending on the number of applications. Staff notes that federal law proposes in-district measures, not out-of-district measures, so it is not clear federal money could be used for this purpose. This provision is similar to SB 266 (Huff, 2009) which was held in submission by this committee in May.

This bill would require the Superintendent of Public Instruction (SPI) to recommend to the State Board of Education (SBE) criteria to be used in determining the bottom 5 percent of the persistently lowest performing schools and the conditions that must exist for a school to exit this condition. The SBE would approve the conditions and criteria by April 1, 2010. The SBE and SPI would be required to consider not identifying a school for additional intervention if that school is showing significant progress under an existing intervention. On or before June 1, 2010 and annually thereafter, the SPI and SBE would jointly identify the list of schools. The SPI would be required to contact districts responsible for the identified schools and direct them to evaluate the reasons for the persistent low performance and approve one of the following renewal efforts: 1) reopen the school as a charter, 2) replace all or most of the school staff, or 3) contract with a private or other external entity to manage the school. If a charter is identified on the list, it shall be recommended for revocation by the SPI. The Department of Education would be required to contract for an independent evaluation of the program to be submitted to

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## SBX5 1 (Romero)

the Legislature, the Governor, and the Director of Finance by March 1, 2015. The bill specifies that federal funds would be used for this evaluation.

Costs for these renewal efforts are somewhat speculative as it is unknown how many schools will be identified for intervention in advance of approved criteria. Federal School Improvement Grant guidance suggests costs for turning around a school are between \$250,000 and \$1 million annually for three years. If 50 schools are identified as the bottom 5 percent, costs for notifications, evaluations, and interventions would likely reach into the tens of millions for each cohort, annually. As more schools are identified each year, annual costs would grow over time. The required evaluation would likely cost between \$500,000 and \$1 million.

Finally, this bill requires the Governor, the SPI, and the SBE to submit a plan for Phase 1 of the RTTT process. The development of this plan is already in process.

To the extent that the state receives RTTT funding, costs of the bill may be offset or at least mitigated. **Staff notes**, though, that it is not a certainty that the state will receive RTTT funds, or that an award would offset all of the bill's costs. Some of the activities may not be consistent with federal requirements and may expose the state to reimbursable General Fund costs through the Commission on State Mandates. Also, RTTT is a one-time grant while many of the new activities in the bill are ongoing. It may also be the case that not all districts impacted by this bill would necessarily receive RTTT funding (e.g., districts of enrollment). Costs and pressures on state resources could be relieved by specifying that all activities in the bill are contingent on the receipt of federal funds, if that is the intent of the author.

Further, it is not clear that legislation is needed at this time to allow the state to apply for the first round of RTTT funding, though it is possible that legislation would strengthen the state's application. The key statutory obstacle faced by the state was removed by the signing of Chapter 159 of the Statutes of 2009 (SB 19, Simitian), which eliminated the state's prohibition on using data from CALTIDES and CALPADS for use in personnel decisions related to teachers. While dramatic changes are not anticipated, the available guidance from the US Department of Education is in draft form and could potentially require further adjustment of state law through additional legislation.



## Frequently Asked Questions

### Open Enrollment Act Senate Bill 4 of the Fifth Extraordinary Session (SBX5 4)

- [General](#)
- [Local Educational Agency \(LEA\)](#)
- [Parents or Guardians](#)

#### General

##### 1. What laws govern the Open Enrollment Act?

The Open Enrollment Act is governed by California *Education Code (EC)* sections 48350–48361 and the *California Code of Regulations*, Title 5, sections 4700–4703.

##### 2. What is the purpose of the Open Enrollment Act?

The purpose of the Open Enrollment Act is to improve student achievement and enhance parental choice in education by providing additional options to pupils to enroll in public schools throughout the state without regard to the residence of their parents. The Open Enrollment Act provides students enrolled in one of the 1,000 Open Enrollment schools the option to enroll in a school within the same district or any other district provided the school to which they are applying has a higher Academic Performance Index (API) score than the pupil's school of residence.

##### 3. How are schools selected, designated, and placed on the list of Open Enrollment schools?

*EC* Section 48352 (a)(2) states that the State Superintendent of Public Instruction "annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008–09 school year. (2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following: (A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools. (B) Court, community, or community day schools shall not be included on the list. (C) Charter schools shall not be included on the list."

*California Code of Regulations*, Title 5, Section 4701(a)(2)(E) provides for the exclusion of schools from the Open Enrollment list that are not schools of a district of residence as defined in *EC* Section 48352(d). However, this provision is not applicable for such schools on the currently posted Open Enrollment lists.

In addition, schools with less than 100 valid scores reported on the 2009 Base API data file were excluded. Because of the ratio specified above, 68.7 percent (or 687 of the 1,000 on list) are elementary schools, 16.5 percent (or 165 of the 1,000 on the list) are middle schools, and 14.8 percent (or 148 of the 1,000 on the list) are high schools.

Creating the list starts with the identification of the 687 elementary schools, 165 middle schools, and 148 high schools that have the lowest API scores within the criteria described above. This list is ranked from lowest API score to highest API score. When an LEA on the list has reached its '10 percent' cap, subject to the roundup provision, (see also question 4) the LEA's schools with the highest API scores are dropped from the list until the LEA has no more than its '10 percent'

number of schools on the list. Schools with the next lowest API scores remaining in the pool are then added to create the next list of 1,000 schools that maintains the required ratio of schools. This process continues until a final list of 1,000 schools is achieved that both maintains the ratio of 68.7 percent elementary schools, 16.5 percent middle schools, and 14.8 percent high schools and does not exceed any LEA's '10 percent' number of schools.

**4. How is the Open Enrollment Act list of schools different from the list of schools identified as "persistently lowest achieving," or in Program Improvement (PI) schools?**

Schools identified as "persistently lowest achieving," or schools in PI are identified based on criteria provided by the federal government. Information and links related to the distinctions can be found on the California Department of Education (CDE) [Persistently Lowest-Achieving Schools Web page](#).

Open Enrollment schools are identified based on provisions in *EC* Section 48352.

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**5. Which schools are excluded from the Open Enrollment list?**

*EC* sections 48352 (a)(2)(B) and (C) identify school types to be excluded from the Open Enrollment list. These school types are juvenile court schools, county community schools, community day schools, and charter schools. In addition, the emergency and proposed permanent Open Enrollment Act regulations also exclude closed schools, schools having fewer than 100 valid test scores, and schools that are not schools of a district of residence as defined in *EC* Section 48352(d). The exclusion of schools with fewer than 100 valid test scores is necessary to reflect the lack of statistical certainty of an API score that is based on less than 100 valid test scores, per *EC* Section 52052 (f)(1).

**6. Will a new list be generated each year?**

Yes. It is anticipated that a new list for the 2015–16 school year will be available in the fall of 2014 and LEAs will be notified that one or more of their schools is on the new list.

**7. How are Single School Districts factored into the Open Enrollment process and list?**

The statute does not make a specific reference to the inclusion of single school districts on the state's list of Open Enrollment schools. *EC* Section 48352 (a)(2)(A) however states that "... , if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools." Consequently, when the LEA's number of schools is not evenly divisible by 10, the 10 percent number of schools shall be rounded up to the next whole number of schools. If an LEA, therefore, has between one and nine schools, this rule means that at least one school can be on the list.

**8. May parents, guardians, and students in the attendance area of a school on the Open Enrollment Act list apply for multiple school transfers to schools with higher API scores?**

Yes. The law does not establish a limit on transfer applications.

**9. What about students of military personnel?**

The application deadline does not apply to an application requesting a transfer if the parent with whom the pupil resides is enlisted in the military and was relocated by the military within 90 calendar days prior to submitting the application. (*EC* Section 48354 [b][3]).

**10. Which rules regarding transfer options take precedence if a school in PI is also designated as an Open Enrollment school?**

A parent or guardian may use either option in transferring a student from the school. LEAs are responsible for providing proper notice to parents and guardians, about transfer requirements under both the Open Enrollment Act and PI. In exercising choice under the PI requirements, a student would attend a higher performing school in his or her district of residence—one not in PI. Transportation services may be provided when using the choice option for PI schools. In exercising choice under Open Enrollment, a parent or guardian may enroll a student in a school within his or her district of residence or another district, as long as that school has a higher API score. Also, transportation is not statutorily a responsibility of either the district of residence or the district of enrollment.

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**11. Can students transferring from Open Enrollment schools transfer to magnet schools and gifted and talented**



## programs?

Any student in the attendance area of a school on the Open Enrollment Act list may apply to transfer to any school in any district that has a higher API score than the attendance area school. However, *EC* Section 48356(b) states that, in considering an application pursuant to this law, "a nonresident school district may apply its usual requirements for admission to a magnet school or a program designed to serve gifted and talented pupils."

### 12. **What happens if the school of enrollment has different requirements for graduation from high school than the district of residence?**

Students will be expected to complete all requirements for graduation from the high school of their district of enrollment.

### 13. **What happens if the high school of enrollment has additional requirements for graduation beyond the requirements of the high school in the student's district of residence?**

If the new high school has additional coursework requirements for graduation authorized by the governing board, the transfer student would normally be expected to meet those additional requirements for graduation. However, Assembly Bill 167 (Chapter 224, Statutes of 2009) exempts any dependent or ward in foster care from all additional coursework and other additional requirements if the pupil, while he or she is in grade eleven or twelve, transfers to the district from another school district, unless the district makes a finding that the pupil is reasonably able to complete the additional requirements in time to graduate from high school while he or she remains eligible for foster care benefits pursuant to law. If a pupil in foster care is granted an exemption which affects the pupil's ability to gain admission to a postsecondary educational institution, the school district is to notify the pupil and the person holding the rights to make educational decisions for the pupil.

### 14. **Is the school of enrollment required to accept credits toward graduation that were awarded to the pupil by another school district?**

Yes. The school of enrollment shall accept credits toward graduation and shall graduate the pupil if the pupil meets the graduation requirements of the school district of enrollment.

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### 15. **How are the needs of students identified for special education services met under the Open Enrollment Act?**

Students with an Individual Education Plan (IEP) have the same opportunity to open enrollment as non-special education students.

Under federal and state laws, placement of a student identified for special education services is determined by the student's IEP. The student's district of residence is primarily responsible for developing the IEP with input from the parents and the student. Placement designated in a student's IEP cannot be unilaterally changed by a parent or guardian or district of residence or any other proposed district of enrollment.

### 16. **How will the needs of English Learner/Limited English Proficient (EL/LEP) students be met?**

English learners (whose school of residence is on the Open Enrollment list) that apply to transfer to another school with a higher API score are eligible to receive EL programs and services at the new school. California's schools are obligated to provide EL students with learning opportunities in an appropriate program based on the individual proficiency level of each student. The provision of such services is not contingent on the school or district of enrollment.

### 17. **Are school districts required to provide transportation of pupils enrolled in other districts pursuant to the Open Enrollment Act?**

No. There is no obligation under the Open Enrollment Act for either school district to provide transportation due to the transfer of a pupil under the Open Enrollment Act. Local LEA governing policies determine the local transportation services. However, in certain cases, if a parent or guardian exercises "choice" under PI requirements, transportation services may be provided (see also question 10). Additionally, transportation may be provided by a school district as a part of a pupil's IEP (see also question 15).

### 18. **When do the permanent regulations go into effect?**

Permanent regulations became effective as of January 1, 2011.

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## Local Educational Agency

### 19. What are the timelines for the 2014–15 school year?

For schools on the 2014–15 Open Enrollment list, districts must notify parents of their option to transfer in time for parents to submit an application by January 1, 2014. The school district of enrollment may waive this deadline.

Within 60 calendar days of receiving an application from a student seeking to transfer pursuant to the Open Enrollment Act, a school district of enrollment shall notify the applicant and the school district of residence in writing whether the application has been accepted or rejected.

### 20. Will the CDE provide a template notification letter to LEAs?

No. LEAs can best determine the most appropriate method and language for accomplishing parent notification.

### 21. Can a school district adopt specific, written standards for acceptance and rejection of applications of students seeking to enroll?

Yes. LEAs may adopt standards, and may include consideration of the capacity of a program, class, grade level, school building, or adverse financial impact. (Subject to subdivision (b), and except as necessary in accordance with *EC* Section 48355), the standards (*EC* Section 48356) shall not include consideration of a pupil's previous academic achievement, physical condition, proficiency in the English language, family income, or any of the individual characteristics set forth in *EC* Section 200.

### 22. Can a school district of residence or a school district of enrollment prohibit the transfer of a student pursuant to the Open Enrollment Act?

Yes, under certain conditions. *EC* Section 48355 (a) states that the school district of residence of a pupil or a school district of enrollment to which a pupil has applied to attend may prohibit the transfer of the pupil pursuant to this article or limit the number of pupils who transfer pursuant to this article if the governing board of the district determines that the transfer would negatively impact either of the following:

1. A court-ordered or voluntary desegregation plan of the district.
2. The racial and ethnic balance of the district, provided that any policy adopted pursuant to this paragraph is consistent with federal and state law.

A school district of residence shall not adopt any other policies that in any way prevent or discourage pupils from applying for a transfer to a school with a higher API.

Communications to parents or guardians by districts regarding the open enrollments options under the Open Enrollment Act shall be factually accurate and not target individual parents, guardians, or residential neighborhoods on the basis of a child's actual or perceived academic or athletic performance or any other personal characteristic.

A resident pupil who is enrolled in one of the district's schools pursuant to this article shall not be required to submit an application in order to remain enrolled.

### 23. How are the applications for Open Enrollment to be selected?

*EC* Section 48356 states that applications are selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, or any of the other characteristics set forth in subdivision (a).

Pupils applying for a transfer pursuant to this article shall be assigned priority for approval as follows:

1. First priority for the siblings of children who already attend the desired school.
2. Second priority for pupils transferring from a program improvement school ranked in decile 1 on the API determined pursuant to subdivision (a) of *EC* Section 48352.

3. If the number of pupils who request a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order identified in paragraphs (1) and (2) to select pupils at random until all of the available spaces are filled.

**24. Can the transferring students displace any other pupil who resides within the attendance area of that school or is currently enrolled in that school?**

No.

**25. When is the school of enrollment required to notify the applicant parent, or guardian and school district of residence?**

EC Section 48357, pursuant to EC Section 48354, states that the school of enrollment is required to notify the applicant parent, or guardian and school district of residence in writing within 60 calendar days of receiving an application. (EC Section 48354) If an application is rejected, the desired school district of enrollment shall state in the notification the reasons for the rejection.

**26. Are LEAs required to keep an accounting of all requests made for alternative attendance?**

EC Section 48359 states that each school district is encouraged to keep an accounting of all requests made for alternative attendance pursuant to the Open Enrollment Act.

**27. Do districts and schools have the right to appeal their inclusion on the Open Enrollment Act list?**

No.

**28. Which Open Enrollment list does a school or LEA of enrollment use when providing notification of transfer options for the 2014–15 school year?**

The [Open Enrollment Schools List 2014–15](#) (XLS; Date 01-Oct-2013) is posted on the CDE Open Enrollment Web page.

**29. How often will a new Open Enrollment list be generated?**

A new Open Enrollment list will be generated annually following the API release for use in the following school year.

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## Parents or Guardians

**30. What is the process for students seeking to transfer under the provisions of the Open Enrollment Act?**

An application requesting a transfer pursuant to EC Section 48354 shall be submitted by the parent, or guardian of a pupil to the school district of enrollment prior to January 1 of the school year preceding the school year for which the pupil is requesting to transfer. The school district of enrollment may waive the deadline specified in this paragraph.

The application may request enrollment of the pupil in a specific school or program within the school district of enrollment. A pupil may enroll in a school district of enrollment in the school year immediately following the approval of his or her application.

In order to provide priority enrollment opportunities for pupils residing in the school district, a school district of enrollment shall establish a period of time for resident pupil enrollment prior to accepting transfer applications pursuant to the Open Enrollment Act. (EC Section 48354 [b][6]).

**31. How do I find a school with a higher API?**

**For Transfer in the 2014–15 School Year**

First, you will need to know the 2013 Growth API score for your school of residence. You can find the "2013 Growth API" on the CDE [API County List of Schools Web page](#).

To find a school with a higher API score, go to [API County List of Schools](#) and select a county. Under "Select Report", choose the "2013 Growth API Report - List of Schools in the County." Review the first column, "2013 Growth API" for the

names of schools and API scores. Compare your current school of residence API score with the school you desire to attend. The score of the desired school must be higher than that of your school of residence in order for you to apply for transfer.

**32. When will the 2015–16 Open Enrollment list be posted?**

The 2015–16 Open enrollment list will be posted in late fall of 2014 after the 2014 API scores have been calculated and posted.

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Questions: Evaluation, Research & Analysis Unit | [evaluation@cde.ca.gov](mailto:evaluation@cde.ca.gov) | 916-322-3245  
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Last Reviewed: Friday, November 01, 2013

# Funding Results

## School Improvement Grant

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Note: Recipients and funding amounts are subject to budget and administrative adjustments.

School Improvement Grant (SIG) 2010-11 award recipients in ascending order. Sixty applications were received and 41 districts were awarded funds on behalf of 92 schools. Nineteen districts shown at the bottom of this page were not funded.

Click on the local educational agency (LEA) name to view the approved application in Portable Document Format (PDF). File sizes are shown for files greater than or equal to 1 Megabyte (MB).

District totals represent the total amount awarded for a three year period. The total awarded was \$412,668,741. LEAs will receive an award notification for each funding year (2010-11, 2011-12, 2012-13) reflecting the approved award amount. The [Excel version](#) (XLS) of this file contains 2010-11 district and school awards with County-District-School (CDS) Codes.

DNCES = District National Center for Education Statistics. A unique 7 digit identifier established by the US Department of Education's National Center for Education Statistics. The first 2 digits identify the state and the last 5 identify the district.

SNCEs = School National Center for Education Statistics. A unique 5 digit identifier established by the US Department of Education's National Center for Education Statistics.

When combined the two codes comprise a unique 12 digit code for each school.

Asterisks (\*\*\*) indicate the LEA's funding level is shown above in the row showing the LEA's first listed school.

The approved applications and revised pages are posted on the SIG Regional Pages, which can be accessed from the [SIG Index page](#). To view the unapproved applications use the linked LEA name in the Funded LEAs table. LEAs are permitted to revise any portion of their application at any time, subject to approval. However, the new use of the funds must target the same need identified in the approved application and the revision cannot compromise the LEA's ability to implement any required element of the selected model(s).

## Budgets and Narratives

To view the desired document select the link in the row of the desired school or LEA.

**Program Questions:** Chad Portney, e-mail: [cportney@cde.ca.gov](mailto:cportney@cde.ca.gov), tel. 916-324-3455

**Fiscal Questions:** Ray Gordon, Jr., e-mail: [rgordon@cde.ca.gov](mailto:rgordon@cde.ca.gov), tel. 916-324-3278

## Funded LEAs (41)

DNCES	LEA	SNCEs	School	Tier and Model	Three Year LEA Total
0601620	ABC Unified	00020	Pharis F. Fedde Middle	II - Transformation	\$3,728,249
				I -	

0635360	Adelante Charter	08628	Adelante Charter	Transformation	\$953,204
0602430	Alvord Unified	00137	Norte Vista High	II - Turnaround	\$5,617,727
0602820	Antelope Valley Union	10823	Eastside High	II - Transformation	\$10,425,777
0602820	Antelope Valley Union	09516	Littlerock High	II - Transformation	**
0691136	Aromas/San Juan Unified	10297	San Juan	I - Transformation	\$4,888,130
0606720	Buttonwillow Union	00594	Buttonwillow Elementary	I - Transformation	\$1,391,529
0608580	Chualar Union Elem.	00854	Chualar Elementary	I - Transformation	\$916,960
0609070	Coachella Valley Unified	07685	West Shores High	I - Turnaround	\$5,000,000
0612880	Escondido Union Elem.	01454	Felicita Elementary	I - Turnaround	\$5,000,000
0613920	Fontana Unified	10301	Fontana A. B. Miller High	II - Transformation	\$5,795,000
0614550	Fresno Unified	01714	Carver Academy	I - Turnaround	\$14,000,000
0614550	Fresno Unified	01778	Webster Elementary	I - Turnaround	**
0614550	Fresno Unified	01783	Yosemite Middle	I - Turnaround	**
0616080	Greenfield Union Elem.	02009	Greenfield Elementary	I - Transformation	\$4,670,913
0616080	Greenfield Union Elem.	02266	Vista Verde Middle	I - Transformation	**
0616740	Hayward Unified	02106	Burbank Elementary	I - Transformation	\$16,000,000
0616740	Hayward Unified	02120	Longwood Elementary	I - Turnaround	**
0616740	Hayward Unified	02135	Tennyson High	II - Transformation	**
0634320	King-Chavez Arts Academy	11390	King/Chavez Arts Academy	I - Transformation	\$4,000,000
0620220	La Honda-Pescadero	02422	Pescadero Elem. & Middle	I - Transformation	\$2,320,531
0620760	Lakeside Union Elementary	02491	Lakeside Elementary	I - Transformation	\$2,807,583
0621870	Lindsay Unified	02594	Jefferson Elementary	I - Turnaround	\$2,807,304
0622710	Los Angeles Unified	03168	Edwin Markham Middle	I - Restart	\$52,000,000
0622710	Los Angeles Unified	03244	Florence Griffith Joyner	I - Restart	**
0622710	Los Angeles Unified	03034	Gardena Senior High	I - Transformation	**

0622710	Los Angeles Unified	02902	George Washington Carver	I - Restart	**
0622710	Los Angeles Unified	03084	Hillcrest Drive Elementary	I - Transformation	**
0622710	Los Angeles Unified	10889	Maywood Academy High	II - Transformation	**
0622710	Los Angeles Unified	03372	Robert L. Stevenson Middle	I - Restart	**
0622710	Los Angeles Unified	03047	Samuel Gompers Middle	I - Restart	**
0622710	Los Angeles Unified	03106	Thomas Jefferson Sr. High	I - Transformation	**
0624090	Marysville Joint Unified	03626	Ella Elementary	I - Turnaround	\$5,000,000
0624230	McFarland Unified	07315	McFarland High	I - Transformation	\$3,382,355
0625530	Monterey Peninsula Unified	03828	Highland Elementary	I - Turnaround	\$16,000,000
0625530	Monterey Peninsula Unified	03829	Martin Luther King	I - Turnaround	**
0625530	Monterey Peninsula Unified	03843	Seaside High	II - Turnaround	**
0625800	Moreno Valley Unified	03868	March Mountain High	II - Transformation	\$1,523,966
0626370	Mt. Diablo Unified	03936	Bel Air Elementary	I - Transformation	\$14,808,308
0626370	Mt. Diablo Unified	03948	Glenbrook Middle	II - Transformation	**
0626370	Mt. Diablo Unified	09406	Rio Vista Elementary	I - Transformation	**
0626370	Mt. Diablo Unified	03972	Shore Acres Elementary	I - Transformation	**
0628050	Oakland Unified	11961	Elmhurst Community Prep.	I - Transformation	\$8,464,859
0628050	Oakland Unified	11909	United for Success Academy	I - Transformation	**
0629490	Pajaro Valley Unified	04539	Calabasas Elementary	I - Transformation	\$6,628,387
0629490	Pajaro Valley Unified	04543	Hall District Elementary	I - Transformation	**
0629490	Pajaro Valley Unified	04552	T. S. MacQuiddy Elem.	I - Transformation	**
0629580	Palmdale Elementary	08933	Cactus Middle	II - Turnaround	\$11,407,660
0629580	Palmdale Elementary	04577	Tumbleweed Elementary	I - Turnaround	**
0631320	Pomona Unified	04839	Emerson Middle	II - Transformation	\$16,000,000

0631320	Pomona Unified	04840	Fremont Middle	II - Transformation	**
0631320	Pomona Unified	04858	Pomona Senior High	II - Transformation	**
0631860	Ravenswood City Elem.	04915	Costano Elementary	I - Turnaround	\$9,000,000
0631860	Ravenswood City Elem.	04914	Ronald McNair Academy	I - Turnaround	**
0691026	Riverside COE	10577	Riverside County Comm.	I - Transformation	\$5,445,458
0634170	San Bernardino City Unified	10365	Arroyo Valley High	II - Transformation	\$57,631,916
0634170	San Bernardino City Unified	05347	Barton Elementary	I - Turnaround	**
0634170	San Bernardino City Unified	05356	Davidson Elementary	I - Transformation	**
0634170	San Bernardino City Unified	05362	Hunt Elementary	I - Turnaround	**
0634170	San Bernardino City Unified	05368	Marshall Elementary	I - Turnaround	**
0634170	San Bernardino City Unified	10049	Pacific High	I - Transformation	**
0634170	San Bernardino City Unified	05382	Rio Vista Elementary	I - Transformation	**
0634170	San Bernardino City Unified	05385	San Geronio High	II - Transformation	**
0634170	San Bernardino City Unified	05386	Serrano Middle	II - Turnaround	**
0634170	San Bernardino City Unified	05387	Shandin Hills Middle	II - Turnaround	**
0634170	San Bernardino City Unified	05392	Wilson Elementary	I - Turnaround	**
0634320	San Diego Unified	05426	Burbank Elementary	I - Transformation	\$4,000,000
0634410	San Francisco Unified	02774	Brown (Willie), Jr., Elem.	I - Closure	\$44,985,332.00
0634410	San Francisco Unified	05592	Bryant Elementary	I - Turnaround	**
0634410	San Francisco Unified	05623	Cesar Chavez Elementary	I - Transformation	**
0634410	San Francisco Unified	07842	Everett Middle	I - Turnaround	**
0634410	San Francisco Unified	05616	George W. Carver Elem.	I - Turnaround	**
0634410	San Francisco Unified	05626	Horace Mann Middle	I - Transformation	**
0634410	San Francisco Unified	05633	John Muir Elementary	I - Turnaround	**
0634410	San Francisco Unified	07350	John O'Connell Alt. High	II - Transformation	**
0634410	San Francisco Unified	05650	Mission High	II -	**



				Transformation	
0634410	San Francisco Unified	05654	Paul Revere Elementary	I - Transformation	**
0634620	San Juan Unified	05778	Encina Preparatory High	II - Turnaround	\$3,633,522
0634710	San Lorenzo Unified	05853	Hillside Elementary	I - Transformation	\$1,676,170
0635310	Santa Ana Unified	09633	Century High	I - Transformation	\$35,000,000
0635310	Santa Ana Unified	06004	Saddleback High	II - Transformation	**
0635310	Santa Ana Unified	06005	Santa Ana High	II - Transformation	**
0635310	Santa Ana Unified	06007	Sierra Intermediate	II - Transformation	**
0635310	Santa Ana Unified	06011	Valley High	I - Transformation	**
0635310	Santa Ana Unified	06013	Willard Intermediate	I - Transformation	**
0636330	Semitropic Elementary	06192	Semitropic Elementary	I - Transformation	\$4,000,000
0637050	Soledad Unified	08746	Rose Ferrero Elementary	I - Turnaround	\$4,825,300
0631860	Stanford New School	11431	Stanford New School	I - Transformation	\$3,560,639
0601332	Twin Rivers Unified	01988	Highlands Academy	II - Transformation	\$5,584,828
0641400	Wasco Union Elementary	06846	Palm Avenue Elementary	I - Transformation	\$3,787,134
0632550	West Contra Costa Unified	05042	Lincoln Elementary	I - Turnaround	\$4,000,000

**The state total is \$412,668,741**

### **Non-Funded LEAs (19)**

<b>DNCES</b>	<b>LEA</b>
0602220	<a href="#">Alta Vista Elementary</a> (PDF; 1MB)
0604110	<a href="#">Bassett Unified</a> (PDF)
0606570	<a href="#">Burton Elementary</a> (PDF; 4MB)
0634320	<a href="#">The Charter School of San Diego</a> (PDF; 1MB)
0609620	<a href="#">Compton Unified</a> (PDF; 1MB)
0611280	<a href="#">Dixon Unified</a> (PDF; 2MB)
0612090	<a href="#">El Monte City Elem.</a> (PDF)

0612330	<a href="#">Elk Grove Unified</a> (PDF; 2MB)
0614730	<a href="#">Fullerton Elementary</a> (PDF)
0619440	<a href="#">Keppel Union Elem.</a> (PDF; 36MB)
0619650	<a href="#">King City Jt. Union High</a> (PDF; 2MB)
0620850	<a href="#">Lamont Elementary</a> (PDF; 99MB)
0620880	<a href="#">Lancaster Elementary</a> (PDF; 11MB)
0691078	<a href="#">Los Angeles COE</a> (PDF; 5MB)
0625470	<a href="#">Montebello Unified</a> (PDF; 39MB)
0629910	<a href="#">Parlier Unified</a> (PDF; 6MB)
0633840	<a href="#">Sacramento City Unified</a> (PDF; 4MB)
0638010	<a href="#">Stockton Unified</a> (PDF; 21MB)
0643020	<a href="#">Woodlake Union Elementary</a> (PDF; 3MB)

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Last Reviewed: Thursday, April 11, 2013

May 12, 2010

# Race to the Top: An Update and Key Issues for Phase 2

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LEGISLATIVE ANALYST'S OFFICE

Presented to:  
Senate Education Committee  
Hon. Gloria Romero, Chair





## Federal Race to the Top Competition

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- As part of the federal stimulus program, the United States Department of Education (ED) created a \$4 billion state competition called "Race to the Top" (RTTT).
  
- Designed to promote changes in four major areas:
  - Common standards and assessments.
  - Student achievement data.
  - Teaching and school leadership.
  - Improving low-achieving schools.
  
- Competition has two phases:
  - Phase 1 grant recipients were announced on March 29, 2010.
  - Phase 2 deadlines rapidly approaching:
    - Applications due on June 1, 2010.
    - Grant recipients will be announced in September 2010.



## California Passed Legislation to Increase Competitiveness for Phase 1

- State passed three pieces of legislation addressing RTTT issues: (1) Chapter 159, Statutes of 2009 (SB 19, Simitian); (2) Chapter 2, Statutes of 2010 (SBX5 1, Steinberg); and (3) Chapter 3, Statutes of 2010 (SBX5 4, Romero).

Item	Description <sup>a</sup>
<b>Standards and Assessments</b>	
Student growth	State shall consider options for measuring individual student growth based on academic assessments.
Common standards and assessments	Legislature intends for state assessments to incorporate common assessments.
Common Core Standards Initiative	The California Department of Education (CDE) and Governor shall participate in the initiative.
Academic Standards Commission	Establishes a commission that shall develop standards in math and Language Arts that consider common standards.
Revised standards	The State Board of Education (SBE) shall either adopt/reject the proposed standards by August 2, 2010.
<b>Data</b>	
Teacher evaluations	Student data may be used for teacher evaluations and personnel decisions (Chapter 159).
Career technical education (CTE) data	The Legislature intends that workforce data be collected for CTE programs.
Data integration	Institutions may enter into interagency agreements to create a single P-20 data system.
Data availability	The CDE shall develop policies for making data available.
New federal stimulus data	An LEA shall retain data to comply with stimulus requirements.
Wage data	Educational agencies in the P-20 system shall have access to individual wage data.
<b>Teachers and Leaders</b>	
Alternative pathways	The state shall authorize new alternative pathways for credentialing CTE and Science, Technology, Engineering, and Math (STEM) teachers.
<b>Lowest-Achieving Schools</b>	
Lowest-achieving schools	The Superintendent and SBE shall identify the state's persistently lowest-achieving schools as defined in federal law.
Intervention models	Districts participating in RTTT with a persistently lowest-achieving school shall implement one of the four reform models.
Parent-driven intervention	If 50 percent of parents of students in a low-performing school agree, then the school is required to implement an intervention model (Chapter 3).
Open enrollment	Students in the bottom 1,000 schools in the state may transfer to another district (Chapter 3).
STEM accountability	The CDE and SBE shall recommend ways to increase accountability in math and science.

<sup>a</sup> Reflects provisions contained in Chapter 2, unless otherwise noted.



## California's Phase 1 RTTT Application

- California submitted a Phase 1 application to receive \$1 billion.
- Would have funded projects in all four reform areas.
- Costliest projects focused on bolstering regional support, particularly for low-achieving schools, and creating Science, Technology, Engineering, and Math (STEM) training programs for teachers.

<b>Major Components of State's Race to the Top (RTTT) Expenditure Plan</b>		
<i>(In Millions)</i>		
<b>Proposal</b>	<b>Description</b>	<b>Amount</b>
<b>Statewide or Regional Activities</b>		
Regional support systems	Provide more regional support for low-performing schools.	\$72.6
STEM training	Fund Local Education Agencies (LEAs) to train teachers in Science, Technology, Engineering, and Math (STEM).	64.4
County Offices of Education	Create regional leads to support RTTT LEAs.	32.7
Principal training	Establish a training program for new principals.	20.5
RTTT Evaluation	Hire contractor to evaluate RTTT effectiveness.	14.5
Evaluating teachers and principals	Hire contractor to develop and implement evaluation models.	11.6
Learning in All Ages Grants	Allow low-performing schools to apply for a competitive grant to expand early education, STEM, multiple pathways.	10.0
Mentor schools	Fund partnerships between low- and high-performing schools.	10.0
Regional Office of Charter Innovation	Create regional office to support charter reforms.	10.0
California Department of Education (CDE) oversight	Fund CDE support positions.	8.9
Foster LEA partnerships	Fund 22 pairs of LEAs to share innovative practices.	8.8
Professional Learning Communities	Fund county office staff and a CDE regional coordinator.	7.7
Assessment development	Embed common standards in new student assessments.	7.1
Online instructional practices	Develop online database of best instructional practices.	6.4
Other reform proposals	All proposals under \$5 million.	14.9
Subtotal		<u>\$300.0</u>
<b>Local Activities</b>	Implement local improvement plans.	<u>\$700.0</u>
<b>Total</b>		<b>\$1,000.0</b>



## Comparing California’s Phase 1 RTTT Application to Other States

- ☑ Application ultimately unsuccessful: California finished 27th out of 41 states that applied.
- ☑ Fifteen states were Phase 1 “finalists.”
- ☑ Two states, Delaware and Tennessee, received Phase 1 grants.
- ☑ In addition to high participation rates, many high-scoring states have already made progress towards developing “P-20” data systems and use them to inform school personnel decisions.

<b>Comparison of California’s Race to the Top Participation to Top-Performing Phase 1 States</b>					
<b>State</b>	<b>Percent of Districts</b>	<b>Percent of Schools</b>	<b>Percent of Students</b>	<b>Percent in Poverty</b>	<b>Percent of Unions</b>
<b>Delaware</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
Kentucky	100	100	100	100	100
North Carolina	100	100	100	100	99
<b>Tennessee</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>93</b>
South Carolina	95	98	99	98	100
Rhode Island	92	94	93	97	4
Florida	89	82	81	80	80
Colorado	74	90	94	94	41
Louisiana	67	48	47	51	78
New York	66	40	82	94	61
Massachusetts	65	73	72	86	51
D.C.	53	83	85	85	—
Ohio	51	53	50	57	37
<b>California</b>	<b>47</b>	<b>56</b>	<b>58</b>	<b>61</b>	<b>26</b>
Illinois	42	64	74	81	32
Pennsylvania	28	36	38	58	100
Georgia	13	39	41	46	100



## A Closer Look at California’s Phase 1 RTTT Score

- ✓ California’s application lost points in several areas.
- ✓ Biggest deductions related to district participation, teacher and principal evaluation, data systems, and support for STEM.

<b>U.S. Department of Education Evaluation of California’s Phase 1 Race to the Top Application</b>			
<b>Reform Item</b>	<b>Available Points</b>	<b>Earned Points</b>	<b>Lost Points</b>
Securing Local Education Agency (LEA) commitment	45	23	22
Implementing a statewide data system	24	6	18
Supporting Science, Technology, Engineering, Math (STEM)	15	—	15
Using evaluations to inform personnel decisions	28	15	13
Ensuring conditions for high-performing charters	40	29	11
Improving student outcomes	25	15	10
Using data to improve instruction	18	8	10
Turning around low-achieving schools	35	26	9
Translating LEA participation into statewide impact	15	8	7
Ensuring capacity to implement reforms	20	13	7
Supporting teachers and principals	20	13	7
Supporting transition to new systems	20	15	5
Developing evaluation systems	15	10	5
Equitably distributing teachers in "high poverty/minority" schools	15	11	4
Securing broad stakeholder support	10	6	4
Providing credential pathways for teachers and principals	21	18	3
Creating reform conditions	5	3	2
Equitably distributing teachers in hard-to-staff subjects	10	8	2
Making education funding a priority	10	8	2
Improving teacher and principal preparation programs	14	12	2
Conducting annual teacher and principal evaluations	10	8	2
Accessing and using data	5	4	1
Measuring student growth	5	4	1
Implementing common assessments	10	9	1
Developing a coherent reform agenda	5	4	1
Other reforms	60	60	—
<b>Totals</b>	<b>500</b>	<b>337</b>	<b>163</b>





## Many Questions Associated With Phase 2 Competition

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- Administration's Delay, Rationale for Participating in Phase 2.** Why did the administration delay so long before deciding to participate in Phase 2? What is the administration's primary rationale for submitting a Phase 2 application?
- Administration's Plan for Improving Application.** How does the administration intend to improve California's application? Does it intend to address the major weaknesses identified in the Phase 1 application?
- District Involvement.** How does the administration intend to involve school districts in the development of the Phase 2 application? How will district involvement in Phase 2 differ from Phase 1? Has ED indicated that California's approach of involving only a few large school districts will improve California's participation score?
- Legislative Involvement.** Does the Legislature want to have primarily an over-sight role in the Phase 2 process? Does it intend to develop a legislative plan for addressing statutorily some of the weaknesses identified in the Phase 1 application?
- Alignment of Goals.** Are the policy goals and interests of the administration, school districts, and the Legislature in alignment?
- Likelihood of Success.** Given California finished 27<sup>th</sup> in Phase 1, what is the likelihood that the administration's ultimate Phase 2 application will result in a RTTT grant? Why does the administration think California's chance of winning in Phase 2 is better than in Phase 1?

# Race to the Top Program Executive Summary



U.S. Department of Education  
Washington, D.C. 20202

November 2009

“It's time to stop just talking about education reform and start actually doing it.  
It's time to make education America's national mission.”  
– President Barack Obama, November 4, 2009

## **BACKGROUND**

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA), historic legislation designed to stimulate the economy, support job creation, and invest in critical sectors, including education. The ARRA lays the foundation for education reform by supporting investments in innovative strategies that are most likely to lead to improved results for students, long-term gains in school and school system capacity, and increased productivity and effectiveness.

The ARRA provides \$4.35 billion for the Race to the Top Fund, a competitive grant program designed to encourage and reward States that are creating the conditions for education innovation and reform; achieving significant improvement in student outcomes, including making substantial gains in student achievement, closing achievement gaps, improving high school graduation rates, and ensuring student preparation for success in college and careers; and implementing ambitious plans in four core education reform areas:

- Adopting standards and assessments that prepare students to succeed in college and the workplace and to compete in the global economy;
- Building data systems that measure student growth and success, and inform teachers and principals about how they can improve instruction;
- Recruiting, developing, rewarding, and retaining effective teachers and principals, especially where they are needed most; and
- Turning around our lowest-achieving schools.

Race to the Top will reward States that have demonstrated success in raising student achievement and have the best plans to accelerate their reforms in the future. These States will offer models for others to follow and will spread the best reform ideas across their States, and across the country.

## **KEY TIMING**

The Department plans to make Race to the Top grants in two phases. States that are ready to apply now may do so in Phase 1; States that need more time may apply in Phase 2. States that apply in Phase 1 but are not awarded grants may reapply for funding in Phase 2, together with States that are applying for the first time in Phase 2. Phase 1 grantees may not apply for additional funding in Phase 2.

Notices Published:	November 2009
Technical Assistance:	
Informational Conference Calls:	November and December 2009
Technical Assistance Workshops:	December 3 in Denver, CO; December 10 in Washington, D.C.
Other Events	TBD
Applications:	
Phase 1 Applications Due:	January 19, 2010
Phase 1 Awards Announced:	April 2010
Phase 2 Applications Due:	June 1, 2010
Phase 2 Awards Announced:	September 2010

## OVERVIEW OF PROGRAM AND POINTS

### Selection Criteria

#### **A. State Success Factors** (125 points)

- (A)(1) Articulating State’s education reform agenda and LEAs’ participation in it (65 points)
- (A)(2) Building strong statewide capacity to implement, scale up, and sustain proposed plans (30 points)
- (A)(3) Demonstrating significant progress in raising achievement and closing gaps (30 points)

#### **B. Standards and Assessments** (70 points)

- (B)(1) Developing and adopting common standards (40 points)
- (B)(2) Developing and implementing common, high-quality assessments (10 points)
- (B)(3) Supporting the transition to enhanced standards and high-quality assessments (20 points)

#### **C. Data Systems to Support Instruction** (47 points)

- (C)(1) Fully implementing a statewide longitudinal data system (24 points)
- (C)(2) Accessing and using State data (5 points)
- (C)(3) Using data to improve instruction (18 points)

#### **D. Great Teachers and Leaders** (138 points)

- (D)(1) Providing high-quality pathways for aspiring teachers and principals (21 points)
- (D)(2) Improving teacher and principal effectiveness based on performance (58 points)
- (D)(3) Ensuring equitable distribution of effective teachers and principals (25 points)
- (D)(4) Improving the effectiveness of teacher and principal preparation programs (14 points)
- (D)(5) Providing effective support to teachers and principals (20 points)

#### **E. Turning Around the Lowest-Achieving Schools** (50 points)

- (E)(1) Intervening in the lowest-achieving schools and LEAs (10 points)
- (E)(2) Turning around the lowest- achieving schools (40 points)

#### **F. General Selection Criteria** (55 points)

- (F)(1) Making education funding a priority (10 points)
- (F)(2) Ensuring successful conditions for high-performing charters and other innovative schools (40 points)
- (F)(3) Demonstrating other significant reform conditions (5 points)

### Priorities

Priority 1: Absolute Priority – Comprehensive Approach to Education Reform

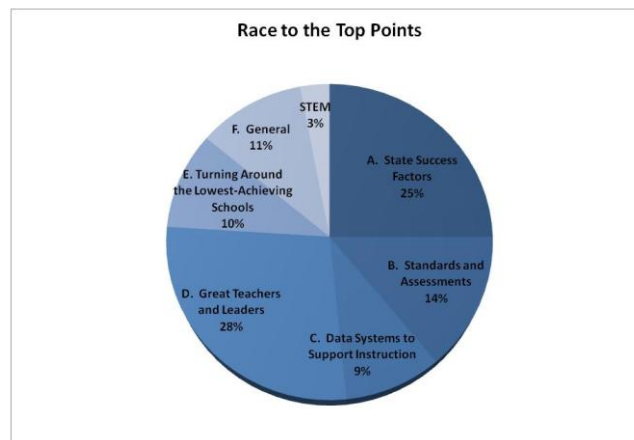
Priority 2: Competitive Preference Priority – Emphasis on Science, Technology, Engineering, and Mathematics (STEM) (15 points, all or nothing)

Priority 3: Invitational Priority – Innovations for Improving Early Learning Outcomes

Priority 4: Invitational Priority – Expansion and Adaptation of Statewide Longitudinal Data Systems

Priority 5: Invitational Priority – P-20 Coordination, Vertical and Horizontal Alignment

Priority 6: Invitational Priority – School-Level Conditions for Reform, Innovation, and Learning



## ELIGIBILITY REQUIREMENTS

A State must meet the following requirements in order to be eligible to receive funds under this program.

(a) The State's applications for funding under Phase 1 and Phase 2 of the State Fiscal Stabilization Fund program must be approved by the Department prior to the State being awarded a Race to the Top grant.

(b) At the time the State submits its application, there must not be any legal, statutory, or regulatory barriers at the State level to linking data on student achievement (as defined in this notice) or student growth (as defined in this notice) to teachers and principals for the purpose of teacher and principal evaluation.

## PRIORITIES

### **Priority 1: Absolute Priority -- Comprehensive Approach to Education Reform**

To meet this priority, the State's application must comprehensively and coherently address all of the four education reform areas specified in the ARRA as well as the State Success Factors Criteria in order to demonstrate that the State and its participating LEAs are taking a systemic approach to education reform. The State must demonstrate in its application sufficient LEA participation and commitment to successfully implement and achieve the goals in its plans; and it must describe how the State, in collaboration with its participating LEAs, will use Race to the Top and other funds to increase student achievement, decrease the achievement gaps across student subgroups, and increase the rates at which students graduate from high school prepared for college and careers.

### **Priority 2: Competitive Preference Priority -- Emphasis on Science, Technology, Engineering, and Mathematics (STEM). (15 points, all or nothing)**

To meet this priority, the State's application must have a high-quality plan to address the need to (i) offer a rigorous course of study in mathematics, the sciences, technology, and engineering; (ii) cooperate with industry experts, museums, universities, research centers, or other STEM-capable community partners to prepare and assist teachers in integrating STEM content across grades and disciplines, in promoting effective and relevant instruction, and in offering applied learning opportunities for students; and (iii) prepare more students for advanced study and careers in the sciences, technology, engineering, and mathematics, including by addressing the needs of underrepresented groups and of women and girls in the areas of science, technology, engineering, and mathematics.

### **Priority 3: Invitational Priority – Innovations for Improving Early Learning Outcomes.**

The Secretary is particularly interested in applications that include practices, strategies, or programs to improve educational outcomes for high-need students who are young children (pre-kindergarten through third grade) by enhancing the quality of preschool programs. Of particular interest are proposals that support practices that (i) improve school readiness (including social, emotional, and cognitive); and (ii) improve the transition between preschool and kindergarten.

### **Priority 4: Invitational Priority – Expansion and Adaptation of Statewide Longitudinal Data Systems.**

The Secretary is particularly interested in applications in which the State plans to expand statewide longitudinal data systems to include or integrate data from special education programs, English language learner programs,<sup>1</sup> early childhood programs, at-risk and dropout prevention programs, and school climate and culture programs, as well as information on student mobility, human resources (*i.e.*, information on teachers, principals, and other staff), school finance, student health, postsecondary education, and other

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<sup>1</sup> The term English language learner, as used in this notice, is synonymous with the term limited English proficient, as defined in section 9101 of the ESEA.

relevant areas, with the purpose of connecting and coordinating all parts of the system to allow important questions related to policy, practice, or overall effectiveness to be asked, answered, and incorporated into effective continuous improvement practices.

The Secretary is also particularly interested in applications in which States propose working together to adapt one State's statewide longitudinal data system so that it may be used, in whole or in part, by one or more other States, rather than having each State build or continue building such systems independently.

**Priority 5: Invitational Priority -- P-20 Coordination, Vertical and Horizontal Alignment.**

The Secretary is particularly interested in applications in which the State plans to address how early childhood programs, K-12 schools, postsecondary institutions, workforce development organizations, and other State agencies and community partners (*e.g.*, child welfare, juvenile justice, and criminal justice agencies) will coordinate to improve all parts of the education system and create a more seamless preschool-through-graduate school (P-20) route for students. Vertical alignment across P-20 is particularly critical at each point where a transition occurs (*e.g.*, between early childhood and K-12, or between K-12 and postsecondary/careers) to ensure that students exiting one level are prepared for success, without remediation, in the next. Horizontal alignment, that is, coordination of services across schools, State agencies, and community partners, is also important in ensuring that high-need students (as defined in this notice) have access to the broad array of opportunities and services they need and that are beyond the capacity of a school itself to provide.

**Priority 6: Invitational Priority -- School-Level Conditions for Reform, Innovation, and Learning.**

The Secretary is particularly interested in applications in which the State's participating LEAs (as defined in this notice) seek to create the conditions for reform and innovation as well as the conditions for learning by providing schools with flexibility and autonomy in such areas as--

- (i) Selecting staff;
- (ii) Implementing new structures and formats for the school day or year that result in increased learning time (as defined in this notice);
- (iii) Controlling the school's budget;
- (iv) Awarding credit to students based on student performance instead of instructional time;
- (v) Providing comprehensive services to high-need students (as defined in this notice) (*e.g.*, by mentors and other caring adults; through local partnerships with community-based organizations, nonprofit organizations, and other providers);
- (vi) Creating school climates and cultures that remove obstacles to, and actively support, student engagement and achievement; and
- (vii) Implementing strategies to effectively engage families and communities in supporting the academic success of their students.

## SELECTION CRITERIA

### A. State Success Factors (125 points)

#### (A)(1) Articulating State's education reform agenda and LEAs' participation in it (65 points)

The extent to which—

- (i) The State has set forth a comprehensive and coherent reform agenda that clearly articulates its goals for implementing reforms in the four education areas described in the ARRA and improving student outcomes statewide, establishes a clear and credible path to achieving these goals, and is consistent with the specific reform plans that the State has proposed throughout its application; (5 points)
- (ii) The participating LEAs (as defined in this notice) are strongly committed to the State's plans and to effective implementation of reform in the four education areas, as evidenced by Memoranda of Understanding (MOUs) (as set forth in Appendix D)<sup>2</sup> or other binding agreements between the State and its participating LEAs (as defined in this notice) that include— (45 points)
  - (a) Terms and conditions that reflect strong commitment by the participating LEAs (as defined in this notice) to the State's plans;
  - (b) Scope-of-work descriptions that require participating LEAs (as defined in this notice) to implement all or significant portions of the State's Race to the Top plans; and
  - (c) Signatures from as many as possible of the LEA superintendent (or equivalent), the president of the local school board (or equivalent, if applicable), and the local teachers' union leader (if applicable) (one signature of which must be from an authorized LEA representative) demonstrating the extent of leadership support within participating LEAs (as defined in this notice); and
- (iii) The LEAs that are participating in the State's Race to the Top plans (including considerations of the numbers and percentages of participating LEAs, schools, K-12 students, and students in poverty) will translate into broad statewide impact, allowing the State to reach its ambitious yet achievable goals, overall and by student subgroup, for— (15 points)
  - (a) Increasing student achievement in (at a minimum) reading/language arts and mathematics, as reported by the NAEP and the assessments required under the ESEA;
  - (b) Decreasing achievement gaps between subgroups in reading/language arts and mathematics, as reported by the NAEP and the assessments required under the ESEA;
  - (c) Increasing high school graduation rates (as defined in this notice); and
  - (d) Increasing college enrollment (as defined in this notice) and increasing the number of students who complete at least a year's worth of college credit that is applicable to a degree within two years of enrollment in an institution of higher education.

#### (A)(2) Building strong statewide capacity to implement, scale up, and sustain proposed plans (30 points)

The extent to which the State has a high-quality overall plan to—

- (i) Ensure that it has the capacity required to implement its proposed plans by— (20 points)
  - (a) Providing strong leadership and dedicated teams to implement the statewide education reform plans the State has proposed;
  - (b) Supporting participating LEAs (as defined in this notice) in successfully implementing the education reform plans the State has proposed, through such activities as identifying promising practices, evaluating these practices' effectiveness, ceasing ineffective practices, widely disseminating and replicating the effective practices statewide, holding participating LEAs (as defined in this notice) accountable for progress and performance, and intervening where necessary;
  - (c) Providing effective and efficient operations and processes for implementing its Race to the Top grant in such areas as grant administration and oversight, budget reporting and monitoring, performance measure tracking and reporting, and fund disbursement;

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<sup>2</sup> See Appendix D for more on participating LEA MOUs and for a model MOU.

(d) Using the funds for this grant, as described in the State's budget and accompanying budget narrative, to accomplish the State's plans and meet its targets, including, where feasible, by coordinating, reallocating, or repurposing education funds from other Federal, State, and local sources so that they align with the State's Race to the Top goals; and

(e) Using the fiscal, political, and human capital resources of the State to continue, after the period of funding has ended, those reforms funded under the grant for which there is evidence of success; and

(ii) Use support from a broad group of stakeholders to better implement its plans, as evidenced by the strength of statements or actions of support from— (10 points)

(a) The State's teachers and principals, which include the State's teachers' unions or statewide teacher associations; and

(b) Other critical stakeholders, such as the State's legislative leadership; charter school authorizers and State charter school membership associations (if applicable); other State and local leaders (e.g., business, community, civil rights, and education association leaders); Tribal schools; parent, student, and community organizations (e.g., parent-teacher associations, nonprofit organizations, local education foundations, and community-based organizations); and institutions of higher education.

(A)(3) Demonstrating significant progress in raising achievement and closing gaps (30 points)

The extent to which the State has demonstrated its ability to—

(i) Make progress over the past several years in each of the four education reform areas, and used its ARRA and other Federal and State funding to pursue such reforms; (5 points)

(ii) Improve student outcomes overall and by student subgroup since at least 2003, and explain the connections between the data and the actions that have contributed to— (25 points)

(a) Increasing student achievement in reading/language arts and mathematics, both on the NAEP and on the assessments required under the ESEA;

(b) Decreasing achievement gaps between subgroups in reading/language arts and mathematics, both on the NAEP and on the assessments required under the ESEA; and

(c) Increasing high school graduation rates.

**B. Standards and Assessments** (70 points)

*State Reform Conditions Criteria*

(B)(1) Developing and adopting common standards (40 points)

The extent to which the State has demonstrated its commitment to adopting a common set of high-quality standards, evidenced by (as set forth in Appendix B)—

(i) The State's participation in a consortium of States that— (20 points)

(a) Is working toward jointly developing and adopting a common set of K-12 standards (as defined in this notice) that are supported by evidence that they are internationally benchmarked and build toward college and career readiness by the time of high school graduation; and

(b) Includes a significant number of States; and

(ii) (20 points)

(a) For Phase 1 applications, the State's high-quality plan demonstrating its commitment to and progress toward adopting a common set of K-12 standards (as defined in this notice) by August 2, 2010, or, at a minimum, by a later date in 2010 specified by the State, and to implementing the standards thereafter in a well-planned way; or

(b) For Phase 2 applications, the State's adoption of a common set of K-12 standards (as defined in this notice) by August 2, 2010, or, at a minimum, by a later date in 2010 specified by the State in a high-quality plan toward which the State has made significant progress, and its commitment to implementing the standards thereafter in a well-planned way.<sup>3</sup>

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<sup>3</sup> Phase 2 applicants addressing selection criterion (B)(1)(ii) may amend their June 1, 2010 application submission through August 2, 2010 by submitting evidence of adopting common standards after June 1, 2010.



(B)(2) Developing and implementing common, high-quality assessments (10 points)

The extent to which the State has demonstrated its commitment to improving the quality of its assessments, evidenced by (as set forth in Appendix B) the State’s participation in a consortium of States that—

- (i) Is working toward jointly developing and implementing common, high-quality assessments (as defined in this notice) aligned with the consortium’s common set of K-12 standards (as defined in this notice); and
- (ii) Includes a significant number of States.

*Reform Plan Criteria*

(B)(3) Supporting the transition to enhanced standards and high-quality assessments (20 points)

The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan for supporting a statewide transition to and implementation of internationally benchmarked K-12 standards that build toward college and career readiness by the time of high school graduation, and high-quality assessments (as defined in this notice) tied to these standards. State or LEA activities might, for example, include: developing a rollout plan for the standards together with all of their supporting components; in cooperation with the State’s institutions of higher education, aligning high school exit criteria and college entrance requirements with the new standards and assessments; developing or acquiring, disseminating, and implementing high-quality instructional materials and assessments (including, for example, formative and interim assessments (both as defined in this notice)); developing or acquiring and delivering high-quality professional development to support the transition to new standards and assessments; and engaging in other strategies that translate the standards and information from assessments into classroom practice for all students, including high-need students (as defined in this notice).

**C. Data Systems to Support Instruction** (47 points)

*State Reform Conditions Criteria*

(C)(1) Fully implementing a statewide longitudinal data system (24 points)

The extent to which the State has a statewide longitudinal data system that includes all of the America COMPETES Act elements (as defined in this notice).

*Reform Plan Criteria*

(C)(2) Accessing and using State data (5 points)

The extent to which the State has a high-quality plan to ensure that data from the State’s statewide longitudinal data system are accessible to, and used to inform and engage, as appropriate, key stakeholders (e.g., parents, students, teachers, principals, LEA leaders, community members, unions, researchers, and policymakers); and that the data support decision-makers in the continuous improvement of efforts in such areas as policy, instruction, operations, management, resource allocation, and overall effectiveness.<sup>4</sup>

(C)(3) Using data to improve instruction (18 points)

The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan to—

- (i) Increase the acquisition, adoption, and use of local instructional improvement systems (as defined in this notice) that provide teachers, principals, and administrators with the information and resources they need to inform and improve their instructional practices, decision-making, and overall effectiveness;
- (ii) Support participating LEAs (as defined in this notice) and schools that are using instructional improvement systems (as defined in this notice) in providing effective professional development to teachers,

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<sup>4</sup> Successful applicants that receive Race to the Top grant awards will need to comply with the Family Educational Rights and Privacy Act (FERPA), including 34 CFR Part 99, as well as State and local requirements regarding privacy.

principals, and administrators on how to use these systems and the resulting data to support continuous instructional improvement; and

(iii) Make the data from instructional improvement systems (as defined in this notice), together with statewide longitudinal data system data, available and accessible to researchers so that they have detailed information with which to evaluate the effectiveness of instructional materials, strategies, and approaches for educating different types of students (*e.g.*, students with disabilities, English language learners, students whose achievement is well below or above grade level).

#### **D. Great Teachers and Leaders (138 points)**

##### *State Reform Conditions Criteria*

##### **(D)(1) Providing high-quality pathways for aspiring teachers and principals (21 points)**

The extent to which the State has—

(i) Legal, statutory, or regulatory provisions that allow alternative routes to certification (as defined in this notice) for teachers and principals, particularly routes that allow for providers in addition to institutions of higher education;

(ii) Alternative routes to certification (as defined in this notice) that are in use; and

(iii) A process for monitoring, evaluating, and identifying areas of teacher and principal shortage and for preparing teachers and principals to fill these areas of shortage.

##### *Reform Plan Criteria*

##### **(D)(2) Improving teacher and principal effectiveness based on performance (58 points)**

The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan and ambitious yet achievable annual targets to ensure that participating LEAs (as defined in this notice)—

(i) Establish clear approaches to measuring student growth (as defined in this notice) and measure it for each individual student; (5 points)

(ii) Design and implement rigorous, transparent, and fair evaluation systems for teachers and principals that (a) differentiate effectiveness using multiple rating categories that take into account data on student growth (as defined in this notice) as a significant factor, and (b) are designed and developed with teacher and principal involvement; (15 points)

(iii) Conduct annual evaluations of teachers and principals that include timely and constructive feedback; as part of such evaluations, provide teachers and principals with data on student growth for their students, classes, and schools; and (10 points)

(iv) Use these evaluations, at a minimum, to inform decisions regarding— (28 points)

(a) Developing teachers and principals, including by providing relevant coaching, induction support, and/or professional development;

(b) Compensating, promoting, and retaining teachers and principals, including by providing opportunities for highly effective teachers and principals (both as defined in this notice) to obtain additional compensation and be given additional responsibilities;

(c) Whether to grant tenure and/or full certification (where applicable) to teachers and principals using rigorous standards and streamlined, transparent, and fair procedures; and

(d) Removing ineffective tenured and untenured teachers and principals after they have had ample opportunities to improve, and ensuring that such decisions are made using rigorous standards and streamlined, transparent, and fair procedures.

##### **(D)(3) Ensuring equitable distribution of effective teachers and principals (25 points)**

The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan and ambitious yet achievable annual targets to—

(i) Ensure the equitable distribution of teachers and principals by developing a plan, informed by reviews of prior actions and data, to ensure that students in high-poverty and/or high-minority schools (both as defined in this notice) have equitable access to highly effective teachers and principals (both as defined in

this notice) and are not served by ineffective teachers and principals at higher rates than other students; and (15 points)

(ii) Increase the number and percentage of effective teachers (as defined in this notice) teaching hard-to-staff subjects and specialty areas including mathematics, science, and special education; teaching in language instruction educational programs (as defined under Title III of the ESEA); and teaching in other areas as identified by the State or LEA. (10 points)

Plans for (i) and (ii) may include, but are not limited to, the implementation of incentives and strategies in such areas as recruitment, compensation, teaching and learning environments, professional development, and human resources practices and processes.

**(D)(4) Improving the effectiveness of teacher and principal preparation programs (14 points)**

The extent to which the State has a high-quality plan and ambitious yet achievable annual targets to—

(i) Link student achievement and student growth (both as defined in this notice) data to the students' teachers and principals, to link this information to the in-State programs where those teachers and principals were prepared for credentialing, and to publicly report the data for each credentialing program in the State; and

(ii) Expand preparation and credentialing options and programs that are successful at producing effective teachers and principals (both as defined in this notice).

**(D)(5) Providing effective support to teachers and principals (20 points)**

The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan for its participating LEAs (as defined in this notice) to—

(i) Provide effective, data-informed professional development, coaching, induction, and common planning and collaboration time to teachers and principals that are, where appropriate, ongoing and job-embedded. Such support might focus on, for example, gathering, analyzing, and using data; designing instructional strategies for improvement; differentiating instruction; creating school environments supportive of data-informed decisions; designing instruction to meet the specific needs of high-need students (as defined in this notice); and aligning systems and removing barriers to effective implementation of practices designed to improve student learning outcomes; and

(ii) Measure, evaluate, and continuously improve the effectiveness of those supports in order to improve student achievement (as defined in this notice).

**E. Turning Around the Lowest-Achieving Schools (50 points)**

*State Reform Conditions Criteria*

**(E)(1) Intervening in the lowest-achieving schools and LEAs (10 points)**

The extent to which the State has the legal, statutory, or regulatory authority to intervene directly in the State's persistently lowest-achieving schools (as defined in this notice) and in LEAs that are in improvement or corrective action status.

*Reform Plan Criteria*

**(E)(2) Turning around the lowest-achieving schools (40 points)**

The extent to which the State has a high-quality plan and ambitious yet achievable annual targets to—

(i) Identify the persistently lowest-achieving schools (as defined in this notice) and, at its discretion, any non-Title I eligible secondary schools that would be considered persistently lowest-achieving schools (as defined in this notice) if they were eligible to receive Title I funds; and (5 points)

(ii) Support its LEAs in turning around these schools by implementing one of the four school intervention models (as described in Appendix C): turnaround model, restart model, school closure, or transformation model (provided that an LEA with more than nine persistently lowest-achieving schools may not use the transformation model for more than 50 percent of its schools). (35 points)

## **F. General (55 points)**

### *State Reform Conditions Criteria*

#### (F)(1) Making education funding a priority (10 points)

The extent to which—

- (i) The percentage of the total revenues available to the State (as defined in this notice) that were used to support elementary, secondary, and public higher education for FY 2009 was greater than or equal to the percentage of the total revenues available to the State (as defined in this notice) that were used to support elementary, secondary, and public higher education for FY 2008; and
- (ii) The State's policies lead to equitable funding (a) between high-need LEAs (as defined in this notice) and other LEAs, and (b) within LEAs, between high-poverty schools (as defined in this notice) and other schools.

#### (F)(2) Ensuring successful conditions for high-performing charter schools and other innovative schools (40 points)

The extent to which—

- (i) The State has a charter school law that does not prohibit or effectively inhibit increasing the number of high-performing charter schools (as defined in this notice) in the State, measured (as set forth in Appendix B) by the percentage of total schools in the State that are allowed to be charter schools or otherwise restrict student enrollment in charter schools;
- (ii) The State has laws, statutes, regulations, or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools; in particular, whether authorizers require that student achievement (as defined in this notice) be one significant factor, among others, in authorization or renewal; encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students (as defined in this notice); and have closed or not renewed ineffective charter schools;
- (iii) The State's charter schools receive (as set forth in Appendix B) equitable funding compared to traditional public schools, and a commensurate share of local, State, and Federal revenues;
- (iv) The State provides charter schools with funding for facilities (for leasing facilities, purchasing facilities, or making tenant improvements), assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports; and the extent to which the State does not impose any facility-related requirements on charter schools that are stricter than those applied to traditional public schools; and
- (v) The State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.

#### (F)(3) Demonstrating other significant reform conditions (5 points)

The extent to which the State, in addition to information provided under other State Reform Conditions Criteria, has created, through law, regulation, or policy, other conditions favorable to education reform or innovation that have increased student achievement or graduation rates, narrowed achievement gaps, or resulted in other important outcomes.

## **DEFINITIONS**

Alternative routes to certification means pathways to certification that are authorized under the State's laws or regulations, that allow the establishment and operation of teacher and administrator preparation programs in the State, and that have the following characteristics (in addition to standard features such as demonstration of subject-matter mastery, and high-quality instruction in pedagogy and in addressing the needs of all students in the classroom including English language learners and student with disabilities): (a) can be provided by various types of qualified providers, including both institutions of higher education and other providers operating independently from institutions of higher education; (b) are selective in accepting candidates; (c) provide supervised, school-based experiences and ongoing support such as effective

mentoring and coaching; (d) significantly limit the amount of coursework required or have options to test out of courses; and (e) upon completion, award the same level of certification that traditional preparation programs award upon completion.

College enrollment refers to the enrollment of students who graduate from high school consistent with 34 CFR 200.19(b)(1) and who enroll in an institution of higher education (as defined in section 101 of the Higher Education Act, P.L. 105-244, 20 U.S.C. 1001) within 16 months of graduation.

Common set of K-12 standards means a set of content standards that define what students must know and be able to do and that are substantially identical across all States in a consortium. A State may supplement the common standards with additional standards, provided that the additional standards do not exceed 15 percent of the State's total standards for that content area.

Effective principal means a principal whose students, overall and for each subgroup, achieve acceptable rates (*e.g.*, at least one grade level in an academic year) of student growth (as defined in this notice). States, LEAs, or schools must include multiple measures, provided that principal effectiveness is evaluated, in significant part, by student growth (as defined in this notice). Supplemental measures may include, for example, high school graduation rates and college enrollment rates, as well as evidence of providing supportive teaching and learning conditions, strong instructional leadership, and positive family and community engagement.

Effective teacher means a teacher whose students achieve acceptable rates (*e.g.*, at least one grade level in an academic year) of student growth (as defined in this notice). States, LEAs, or schools must include multiple measures, provided that teacher effectiveness is evaluated, in significant part, by student growth (as defined in this notice). Supplemental measures may include, for example, multiple observation-based assessments of teacher performance.

Formative assessment means assessment questions, tools, and processes that are embedded in instruction and are used by teachers and students to provide timely feedback for purposes of adjusting instruction to improve learning.

Graduation rate means the four-year or extended-year adjusted cohort graduation rate as defined by 34 CFR 200.19(b)(1).

Highly effective principal means a principal whose students, overall and for each subgroup, achieve high rates (*e.g.*, one and one-half grade levels in an academic year) of student growth (as defined in this notice). States, LEAs, or schools must include multiple measures, provided that principal effectiveness is evaluated, in significant part, by student growth (as defined in this notice). Supplemental measures may include, for example, high school graduation rates; college enrollment rates; evidence of providing supportive teaching and learning conditions, strong instructional leadership, and positive family and community engagement; or evidence of attracting, developing, and retaining high numbers of effective teachers.

Highly effective teacher means a teacher whose students achieve high rates (*e.g.*, one and one-half grade levels in an academic year) of student growth (as defined in this notice). States, LEAs, or schools must include multiple measures, provided that teacher effectiveness is evaluated, in significant part, by student growth (as defined in this notice). Supplemental measures may include, for example, multiple observation-based assessments of teacher performance or evidence of leadership roles (which may include mentoring or leading professional learning communities) that increase the effectiveness of other teachers in the school or LEA.

High-minority school is defined by the State in a manner consistent with its Teacher Equity Plan. The State should provide, in its Race to the Top application, the definition used.

High-need LEA means an LEA (a) that serves not fewer than 10,000 children from families with incomes below the poverty line; or (b) for which not less than 20 percent of the children served by the LEA are from families with incomes below the poverty line.

High-need students means students at risk of educational failure or otherwise in need of special assistance and support, such as students who are living in poverty, who attend high-minority schools (as defined in this notice), who are far below grade level, who have left school before receiving a regular high school diploma, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who have been incarcerated, who have disabilities, or who are English language learners.

High-performing charter school means a charter school that has been in operation for at least three consecutive years and has demonstrated overall success, including (a) substantial progress in improving student achievement (as defined in this notice); and (b) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

High-poverty school means, consistent with section 1111(h)(1)(C)(viii) of the ESEA, a school in the highest quartile of schools in the State with respect to poverty level, using a measure of poverty determined by the State.

High-quality assessment means an assessment designed to measure a student's knowledge, understanding of, and ability to apply, critical concepts through the use of a variety of item types and formats (*e.g.*, open-ended responses, performance-based tasks). Such assessments should enable measurement of student achievement (as defined in this notice) and student growth (as defined in this notice); be of high technical quality (*e.g.*, be valid, reliable, fair, and aligned to standards); incorporate technology where appropriate; include the assessment of students with disabilities and English language learners; and to the extent feasible, use universal design principles (as defined in section 3 of the Assistive Technology Act of 1998, as amended, 29 U.S.C. 3002) in development and administration.

Increased learning time means using a longer school day, week, or year schedule to significantly increase the total number of school hours to include additional time for (a) instruction in core academic subjects, including English; reading or language arts; mathematics; science; foreign languages; civics and government; economics; arts; history; and geography; (b) instruction in other subjects and enrichment activities that contribute to a well-rounded education, including, for example, physical education, service learning, and experiential and work-based learning opportunities that are provided by partnering, as appropriate, with other organizations; and (c) teachers to collaborate, plan, and engage in professional development within and across grades and subjects.<sup>5</sup>

Innovative, autonomous public schools means open enrollment public schools that, in return for increased accountability for student achievement (as defined in this notice), have the flexibility and authority to define their instructional models and associated curriculum; select and replace staff; implement new structures and formats for the school day or year; and control their budgets.

Instructional improvement systems means technology-based tools and other strategies that provide teachers, principals, and administrators with meaningful support and actionable data to systemically manage continuous instructional improvement, including such activities as: instructional planning; gathering information (*e.g.*, through formative assessments (as defined in this notice), interim assessments (as defined in this notice), summative assessments, and looking at student work and other student data); analyzing information with the support of rapid-time (as defined in this notice) reporting; using this information to inform decisions on appropriate next instructional steps; and evaluating the effectiveness of the actions taken. Such systems promote collaborative problem-solving and action planning; they may also integrate instructional data with student-level data such as attendance, discipline, grades, credit accumulation, and student survey results to provide early warning indicators of a student's risk of educational failure.

Interim assessment means an assessment that is given at regular and specified intervals throughout the school year, is designed to evaluate students' knowledge and skills relative to a specific set of academic

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<sup>5</sup> Research supports the effectiveness of well-designed programs that expand learning time by a minimum of 300 hours per school year. (See Frazier, Julie A.; Morrison, Frederick J. "The Influence of Extended-year Schooling on Growth of Achievement and Perceived Competence in Early Elementary School." *Child Development*. Vol. 69 (2), April 1998, pp.495-497 and research done by Mass2020.) Extending learning into before- and after-school hours can be difficult to implement effectively, but is permissible under this definition with encouragement to closely integrate and coordinate academic work between in-school and out-of school. (See James-Burdumy, Susanne; Dynarski, Mark; Deke, John. "When Elementary Schools Stay Open Late: Results from The National Evaluation of the 21st Century Community Learning Centers Program." <[http://www.mathematica-mpr.com/publications/redirect\\_PubsDB.asp?strSite=http://epa.sagepub.com/cgi/content/abstract/29/4/296](http://www.mathematica-mpr.com/publications/redirect_PubsDB.asp?strSite=http://epa.sagepub.com/cgi/content/abstract/29/4/296)> Educational Evaluation and Policy Analysis, Vol. 29 (4), December 2007, Document No. PP07-121.)

standards, and produces results that can be aggregated (*e.g.*, by course, grade level, school, or LEA) in order to inform teachers and administrators at the student, classroom, school, and LEA levels.

Involved LEAs means LEAs that choose to work with the State to implement those specific portions of the State’s plan that necessitate full or nearly-full statewide implementation, such as transitioning to a common set of K-12 standards (as defined in this notice). Involved LEAs do not receive a share of the 50 percent of a State’s grant award that it must subgrant to LEAs in accordance with section 14006(c) of the ARRA, but States may provide other funding to involved LEAs under the State’s Race to the Top grant in a manner that is consistent with the State’s application.

Low-minority school is defined by the State in a manner consistent with its Teacher Equity Plan. The State should provide, in its Race to the Top application, the definition used.

Low-poverty school means, consistent with section 1111(h)(1)(C)(viii) of the ESEA, a school in the lowest quartile of schools in the State with respect to poverty level, using a measure of poverty determined by the State.

Participating LEAs means LEAs that choose to work with the State to implement all or significant portions of the State’s Race to the Top plan, as specified in each LEA’s agreement with the State. Each participating LEA that receives funding under Title I, Part A will receive a share of the 50 percent of a State’s grant award that the State must subgrant to LEAs, based on the LEA’s relative share of Title I, Part A allocations in the most recent year, in accordance with section 14006(c) of the ARRA. Any participating LEA that does not receive funding under Title I, Part A (as well as one that does) may receive funding from the State’s other 50 percent of the grant award, in accordance with the State’s plan.

Persistently lowest-achieving schools means, as determined by the State: (i) Any Title I school in improvement, corrective action, or restructuring that (a) Is among the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring or the lowest-achieving five Title I schools in improvement, corrective action, or restructuring in the State, whichever number of schools is greater; or (b) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years; and (ii) Any secondary school that is eligible for, but does not receive, Title I funds that (a) Is among the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, Title I funds, whichever number of schools is greater; or (b) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years.

To identify the lowest-achieving schools, a State must take into account both (i) The academic achievement of the “all students” group in a school in terms of proficiency on the State’s assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and (ii) The school’s lack of progress on those assessments over a number of years in the “all students” group.

Rapid-time, in reference to reporting and availability of locally-collected school- and LEA-level data, means that data are available quickly enough to inform current lessons, instruction, and related supports.

Student achievement means—

(a) For tested grades and subjects: (1) a student’s score on the State’s assessments under the ESEA; and, as appropriate, (2) other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across classrooms.

(b) For non-tested grades and subjects: alternative measures of student learning and performance such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across classrooms.

Student growth means the change in student achievement (as defined in this notice) for an individual student between two or more points in time. A State may also include other measures that are rigorous and comparable across classrooms.

Total revenues available to the State means either (a) projected or actual total State revenues for education and other purposes for the relevant year; or (b) projected or actual total State appropriations for education and other purposes for the relevant year.

America COMPETES Act elements means (as specified in section 6401(e)(2)(D) of that Act): (1) a unique statewide student identifier that does not permit a student to be individually identified by users of the

system; (2) student-level enrollment, demographic, and program participation information; (3) student-level information about the points at which students exit, transfer in, transfer out, drop out, or complete P-16 education programs; (4) the capacity to communicate with higher education data systems; (5) a State data audit system assessing data quality, validity, and reliability; (6) yearly test records of individual students with respect to assessments under section 1111(b) of the ESEA (20 U.S.C. 6311(b)); (7) information on students not tested by grade and subject; (8) a teacher identifier system with the ability to match teachers to students; (9) student-level transcript information, including information on courses completed and grades earned; (10) student-level college readiness test scores; (11) information regarding the extent to which students transition successfully from secondary school to postsecondary education, including whether students enroll in remedial coursework; and (12) other information determined necessary to address alignment and adequate preparation for success in postsecondary education.



# Open Enrollment

Information on the Open Enrollment Act, which allows students the option to enroll in a different school with a higher Academic Performance Index (API) than the pupil's school of residence.

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## About the Open Enrollment Act

With the Open Enrollment Act (SBX5 4, Chapter 3, 5th Extraordinary Session, 2010), the California State Legislature has taken the step of giving students from the 1,000 schools listed on the "Open Enrollment Schools" list the right to enroll in higher achieving schools.

The Open Enrollment Act, SBX5 4 (Romero), was signed into law on January 7, 2010, and became effective on April 14, 2010. The Open Enrollment Act provides students enrolled in one of the 1,000 "low-achieving" schools, hereinafter referred to as "Open Enrollment" schools, the option to enroll in a different school with a higher Academic Performance Index (API) than the pupil's school of residence.


### Overview of the Methodology

Used to identify the 1,000 Open Enrollment schools.

### Frequently Asked Questions

Questions and answers regarding the Open Enrollment Act.

## Regulations & Legislation

- [Open Enrollment Regulations](#)  
Title 5 *California Code of Regulations (5 CCR)*, Section 4700 *et seq.*, effective date January 1, 2011.
- [California Education Code sections 48350-48361](#) 

## Data Reports

### 2014–15 School Year

- [Open Enrollment Schools List 2014–15](#) (XLS; Date 23-Oct-2013)  
All 1,000 Open Enrollment schools for the 2014–15 school year.

### 2013–14 School Year

- [Open Enrollment Schools List 2013–14](#) (XLS; **Revised** 07-Aug-2013)  
All 1,000 Open Enrollment schools for the 2013–14 school year.

### 2012–13 School Year

- [Open Enrollment Schools 2012–13](#)  
Search for an Open Enrollment school for the 2012–13 school year.
- [Open Enrollment Schools List 2012–13](#) (XLS; **Revised** 11-Feb-2013)  
All 1,000 Open Enrollment schools for the 2012–13 school year.

## Find a Higher Performing School

### 2014–15 School Year

First, you will need to know the 2013 Growth API score for your school of residence. You can find the "2012 Growth API" on the CDE [API County List of Schools Web page](#).

To find a school with a higher API score, go to [API County List of Schools](#) and select a county. Under "Select Report", choose the "2013 Growth API Report - List of Schools in the County." Review the first column, "2013 Growth API" for the names of schools and API scores. Compare your current school of residence API score with the school you desire to attend. The score of the desired school must be higher than that of your school of residence in order for you to apply for transfer.

3/13/2014

Open Enrollment - Educational Options (CA Dept of Education)

Last Reviewed: Wednesday, October 23, 2013

**California Department of Education**  
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