



CALIFORNIA STATE BOARD OF EDUCATION

JULY 2017 AGENDA

SUBJECT

California Education for a Global Economy Initiative:
Commencement of Rulemaking Process for Amendments to Title 5 of the *California Code of Regulations* Sections 11300, 11301, 11309, 11310, and 11316 and Adoption of Proposed Sections 11311 and 11312

- ☒ Action
- ☒ Information
- ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

The California Department of Education (CDE) is responsible for the implementation of the California Education for a Global Economy (CA Ed.G.E.) Initiative. This initiative was passed in the Legislature as Senate Bill 1174, Statutes of 2014, Section 5, and was approved by voters on November 8, 2016. The CA Ed.G.E. Initiative amends California *Education Code (EC)* sections 300, 305, 306, 310, 320, and 335, and repeals *EC* Section 311. The amended statutes are operative July 1, 2017.

The CDE is submitting proposed amendments to the California Code of Regulations, Title 5, sections 11300, 11301, 11309, 11310, 11316 and adding sections 11311 and 11312. The CDE recommends the State Board of Education (SBE) approve the commencement of the rulemaking process, including a public comment period, resulting in regulations that may be adopted for the implementation of the CA Ed.G.E. Initiative.

RECOMMENDATION

The CDE recommends the SBE take the following actions:

- Approve the Notice of Proposed Rulemaking (Notice)
- Approve the Initial Statement of Reasons (ISOR)
- Direct the CDE to commence the rulemaking process
- Approve the proposed regulations
- Authorize the CDE to take any necessary action to respond to any direction or concern expressed by the Office of Administrative Law during its review of the Notice, ISOR, and proposed regulations

BRIEF HISTORY OF KEY ISSUES

The CA Ed.G.E. Initiative amends or repeals provisions of Proposition 227, a measure approved by the voters in June 1998, codified in *EC* sections 300, 305, 306, 310, 311, 320, and 335. Proposition 227 required, among other things, that “all children in California public schools be taught English by being taught in English” (*EC* Section 305).

Proposition 227 specified that English learner pupils be educated through a sheltered English immersion process during a temporary transition period not normally intended to exceed one year. Participation in sheltered English immersion could be waived through a process initiated by a written request for a bilingual program from a pupil's parent or legal guardian. The CA Ed.G.E Initiative amends or repeals these requirements.

The CA Ed.G.E. Initiative acknowledges the benefits and opportunity that multilingual education provides students as a vehicle toward participation in a global economy. This initiative provides opportunity for English learners and native English speakers to participate in a program that leads to proficiency in English and another language.

Three sections (*EC* sections 305, 306, and 310) of the amended statute necessitate regulation. The proposed regulations address:

1. The inclusion of parents and community members while considering the establishment and implementation of language acquisition programs at school districts or county offices of education, during the development of local control and accountability plans.
2. Notification to parents regarding the language acquisition programs provided in the school district or county office of education.
3. A process for receiving and responding to parent requests for language acquisition programs provided at a school site.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

On May 30, 2002, the SBE adopted the current regulations implementing Proposition 227. In January 2003, the regulations for the implementation of Proposition 227 became operative.

FISCAL ANALYSIS (AS APPROPRIATE)

An Economic and Fiscal Impact Statement, Attachment 4, will be provided as an Addendum.

ATTACHMENT(S)

Attachment 1: Notice of Proposed Rulemaking (5 pages)

Attachment 2: Initial Statement of Reasons (10 pages)

Attachment 3: Proposed Regulations (9 pages)

Attachment 4: Economic and Fiscal Impact Statement (STD.399) (5 pages) This Attachment will be provided as an Item Addendum.



CALIFORNIA DEPARTMENT OF EDUCATION
TOM TORLAKSON, State Superintendent of Public Instruction
916-319-0800

1430 N Street Sacramento, CA 95814-5901



CALIFORNIA STATE BOARD OF EDUCATION
MICHAEL W. KIRST, President
916-319-0827

NOTICE OF PROPOSED RULEMAKING

AMENDMENT TO CALIFORNIA CODE OF REGULATIONS, TITLE 5, REGARDING California Education for a Global Economy Initiative

[Notice published July 28, 2017]

NOTICE IS HEREBY GIVEN that the State Board of Education (SBE) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

California Department of Education (CDE) staff, on behalf of the SBE, will hold a public hearing at 1:30 p.m. on September 11, 2017, at 1430 N Street, Room 1801, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SBE requests, but does not require, that persons who make oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

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

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

Comments may also be submitted by facsimile (FAX) at 916-319-0155 or by e-mail to regcomments@cde.ca.gov.

Comments must be received by the Regulations Coordinator prior to 5:00 p.m. on September 11, 2017. All written comments received by CDE staff during the public comment period are subject to disclosure under the Public Records Act.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AUTHORITY AND REFERENCE

Authority: Section 33031, Education Code.

References: Sections 305, 306, 310, 313, 18100, 18101, 44253.3, 44253.4, 48980, 48981, 48985, 51210.2, 51222, 52060, 52062, 52063, 52064, 52066, 52067, 52068, 52069, 56028, 56055, 60605, 60605.1, 60605.2, 60605.3, 60605.4, 60605.5, 60605.8, 60605.11, and 60605.13, Education Code; Sections 361 and 727, Welfare and Institutions Code; 20 U.S.C. Sections 1703, 6311, and 6318; Sections 11308, 15495(b), and 15496(f), Title 5 California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In November 2016, California voters approved Proposition 58, initiated by Senate Bill 1174, Statutes of 2014, Section 5, and referred to as the California Education for a Global Economy (CA Ed.G.E.) Initiative. This initiative amends California *Education Code (EC)* sections 300, 305, 306, 310, 320, and 335, and repeals *EC* Section 311, all of which were enacted in 1998 with the voter approved Proposition 227. The amended statutes in the CA Ed.G.E. Initiative became operative July 1, 2017.

The enactment of the CA Ed.G.E. Initiative affects current sections 11300, 11301, 11309, 11310, and 11316 of the Title 5 of the *Code of Regulations (5 CCR)*, which currently implement Proposition 227. The applicable language in each section will be modified or replaced with language implementing *EC* sections 300, 305, 306, and 310, as amended by Proposition 58. Additionally, sections 11311 and 11312 are added to 5 CCR to address parent requests for language acquisition programs and language programs.

The CA Ed.G.E. Initiative acknowledges the benefits that multilingual education provides students toward participation in a global economy. It provides opportunities for English learners and native speakers of English to participate in a program that leads to proficiency in English and another language, if so desired. The acquisition of English as rapidly and as effectively as possible for English learners continues to be a state priority.

School districts, county offices of education, schools, and parents seek direction regarding the implementation of the CA Ed.G.E. Initiative. These regulations will provide specificity not included in the statute, thus aiding school districts and county offices of education to comply with the provisions of the law. Clear direction is particularly needed to ensure districts and county offices of education engage with parents and the community with respect to the provision of language acquisition programs.

Anticipated Benefits of the Proposed Regulation

The proposed regulations are intended to assist school districts and county offices of education in complying with the provisions and intent of the CA Ed.G.E. Initiative. Each regulation is designed to guide school districts and county offices of education, or school sites, toward a practice that incorporates parents and stakeholders into the process of establishing language acquisition programs and language programs. The regulations acknowledge that it takes time, research, resources, and deliberate planning to successfully develop and establish an instructional program that leads students toward proficiency and academic achievement in English and an additional language, if so desired.

Determination of Inconsistency/Incompatibility with Existing State Regulations

The CDE reviewed state regulations relating to the CA Ed.G.E. Initiative and has not found regulations that are inconsistent or incompatible with these proposed regulations regarding state or federal law.

DISCLOSURES REGARDING THE PROPOSED ACTION/ FISCAL IMPACT

The SBE has made the following initial determinations:

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

The proposed regulations do not require a report to be made.

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

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

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

Costs or savings in federal funding to the state: None

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

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

Effect on housing costs: None

Effect on small businesses: The proposed regulations would not have an effect on any small business because the activities specified in the regulations affect only schools districts and county offices of education.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The SBE concludes that it is unlikely that these proposed regulations will: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

CONSIDERATION OF ALTERNATIVES

The SBE must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SBE, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

CONTACT PERSONS

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

Lorrie Kelling, Education Programs Assistant
English Learner Support Division
California Department of Education
1430 N Street, Suite 2204
Sacramento, CA 95814
Telephone: 916-319-0386
E-mail: CA-EDGE@cde.ca.gov

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or the back-up contact person, Hillary Wirick, Regulations Analyst, at 916-319-0860.

INITIAL STATEMENT OF REASONS AND INFORMATION

The SBE has prepared an Initial Statement of Reasons for the proposed regulation and has available all the information upon which the proposal is based.

TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the CDE Proposed Rulemaking and Regulations Web page at <http://www.cde.ca.gov/re/lr/rr/>.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

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

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

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Lorrie Kelling, English Learner Support Division, 1430 N Street, Room 2204, Sacramento, CA, 95814; telephone 916-319-0386, e-mail CA-EDGE@cde.ca.gov. It is recommended that assistance be requested at least two weeks prior to the hearing.

INITIAL STATEMENT OF REASONS

California Education for a Global Economy Initiative

INTRODUCTION

In November 2016, California voters approved Proposition 58, initiated by Senate Bill 1174, Statutes of 2014, Section 5, and referred to as the California Education for a Global Economy (CA Ed.G.E.) Initiative. This initiative amends California *Education Code* (EC) sections 300, 305, 306, 310, 320, and 335 and repeals EC Section 311, all of which were enacted in 1998 with the voter-approved Proposition 227.

Proposition 227 required that “all children in California public schools be taught English by being taught in English.” It directed that English learner pupils be educated through a sheltered English immersion program during a temporary transition period, not normally to exceed one year. It allowed for a waiver of this requirement when a pupil’s parent or legal guardian provided written consent and certain additional conditions were met.

The CA Ed.G.E. Initiative acknowledges the benefits that multilingual education provides students toward participation in a global economy. It provides opportunity for English learners and native speakers of English to participate in a program that leads to proficiency in English and another language. A state priority continues to be that English learners acquire English as rapidly and as effectively as possible. Also, the CA Ed.G.E. Initiative encourages school districts and county offices of education to offer language programs for native speakers of English to develop proficiency in a language other than English. The amended statutes in the CA Ed.G.E. Initiative became operative July 1, 2017.

The CA. Ed.G.E. Initiative integrates the consideration of the types of language acquisition programs to be provided into the development of the Local Control and Accountability Plan (LCAP). School districts and county offices of education inform and receive input on language acquisition programs that reflect the interests and needs of the community. Ultimately, parents interested in a program under this initiative may request such at their school site. Provisions in the initiative specify thresholds for when a school must provide that program, to the extent possible.

The role that parents and community members play in choosing language acquisition programs is at the center of the legislation. It provides opportunities for parent and community engagement and decision-making at the county office of education, school district, and school site levels, as partners in the preparation of their children to become full and effective participants in the global economy.

PROBLEM AGENCY INTENDS TO ADDRESS

The enactment of the CA Ed.G.E. Initiative affects current sections 11300, 11301, 11309, 11310, and 11316 of Title 5 of the *California Code of Regulations* (5 CCR),

which currently implement Proposition 227. The applicable language in each section will be modified or replaced with language implementing *EC* sections 300, 305, 306, and 310, as amended by Proposition 58. Additionally, sections 11311 and 11312 are added to 5 *CCR* to address parent requests for language acquisition programs and language programs.

School districts, county offices of education, schools, and parents are seeking direction regarding the implementation of the CA Ed.G.E. Initiative. These regulations are necessary to provide clarity and specificity not provided by the statute, and thus aid school districts and county offices of education in complying with the provisions of the law. Clear direction is particularly needed to ensure districts and county offices of education engage with parents and the community with respect to the provision of language acquisition programs and language programs.

BENEFITS ANTICIPATED FROM REGULATORY ACTION

The proposed regulations are intended to assist school districts and county offices of education in complying with the provisions and fulfilling the intent of the CA Ed.G.E. Initiative. Each regulation is designed to guide school districts and county offices of education, or school sites, toward a practice that incorporates parents and stakeholders into the process of establishing language acquisition programs. The regulations acknowledge that it takes time, research, resources, and deliberate planning to successfully develop and establish an instructional program that leads students toward proficiency and academic achievement in English and an additional language, if so desired.

SPECIFIC PURPOSE OF EACH SECTION – GOV. CODE SECTION 11346.2(b)(1)

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

Current section 11300 is deleted to remove current language addressing “school term,” which was established to implement the provisions of Proposition 227. It defines a term in *EC* Section 330, which refers to the operative date for Proposition 227. This language is no longer necessary because the CA Ed.G.E. Initiative substantially amends Proposition 227.

Proposed section 11300 is added to define and clarify key terms used within these regulations. This is necessary to establish uniformity and consistency in the implementation of the CA Ed.G.E. Initiative and the understanding of these regulations.

Proposed section 11300(a) is added to define “Designated English Language Development (ELD)”. It is necessary to define this term because it is used in the proposed sections 11300(d) and 11309(c)(1) in these regulations to describe one of the components of English language acquisition programs.

Proposed section 11300(b) is added to define “English learner parent advisory committee,” by reference to the Local Control Funding Formula (LCFF) definitions in *EC* sections 52060 and 52068. The CA Ed.G.E. Initiative requires parent and community engagement regarding language acquisition programs and language programs as part of the process of developing a school district or county office of education LCAP, as required by LCFF. The definition of “English learner parent advisory committee”, included in the regulations, aligns to the LCFF and provides for consistent application in these regulations.

Proposed section 11300(c) is added to define “Integrated English Language Development”. It is necessary to define this term because it is used in the proposed sections 11300(d) and 11309(c)(1) in these regulations to describe one of the components of English language acquisition programs.

Proposed section 11300(d) is added to clarify that a “language acquisition program,” as specified in *EC* Section 306(c), is designed for English learners, and includes the components set forth in the proposed section 11309.

Proposed section 11300(e) is added to clarify that “language programs,” referred to in *EC* sections 300(k) and 310(b)(2), are designed for students seeking an opportunity to develop proficiency in a language other than English to a degree sufficient to produce proficiency in that other language. This definition is necessary to **distinguish between “language programs” and “language acquisition programs”**, which are designed for English learners.

Proposed section 11300(f) is added to define the term “Local Control and Accountability Plan (LCAP),” referred to in *EC* Section 305(a)(1). This definition is based on *EC* sections 52060 and 52066, and is included to align this term to its meaning under LCFF and to provide for consistent application in these regulations.

Proposed section 11300(g) is added to define the term “local educational agency (LEA)” for the purposes of these regulations as including school districts and county offices of education. Education Code sections 305(a)(2), (b), and (c) refer to only school districts and county offices of education. Accordingly, charter schools are not governed by the CA Ed.G.E. Initiative and are not included in the term “local educational agency” as used by these regulations.

Proposed section 11300(h) is added to define “parent advisory committee” as referenced in *EC* sections 52060 and 52068. The CA Ed.G.E. Initiative requires parent and community engagement regarding language acquisition programs and language programs as part of the process of developing a school district or county office of

education LCAP, as required by LCFF. This definition is included to align this term to its meaning under LCFF and to provide for consistent application in these regulations.

Proposed section 11300(i) is added to define “parents” as referenced throughout these regulations. The definition clarifies that the terminology “parents” and “parents and legal guardians,” as used by the CA Ed.G.E. Initiative, means the same as the definition of “parents” under LCFF implementing regulations, 5 CCR, section 15495(e).

Proposed section 11300(j) is added to define “stakeholders,” referred to in section 11301 of these regulations. This term is necessary to clarify those individuals and groups which an LEA must inform and receive input from regarding language acquisition programs and language programs during the LCAP development process.

Proposed section 11300(k) is added to define the “state-adopted academic content standards” in which language acquisition programs, provided by an LEA, are required to lead to proficiency as described in proposed section 11309 of these regulations.

Proposed section 11300(l) is added to define “state-adopted English language development standards” referenced in *EC* sections 305 and 306 as the subject matter identified in *EC* Section 60811.

Proposed section 11300(m) is added to facilitate access to the definition of “Structured English Immersion (SEI),” in *EC* sections 305(a)(2) and 306(c)(3).

Current section 11301 is deleted to remove language addressing knowledge and fluency in English, the requirement to place English learners in a sheltered English immersion classroom, and eventual placement in an English language mainstream program. This language is no longer necessary because the CA Ed.G.E. Initiative substantially amends Proposition 227.

Proposed section 11301(a) is added to clarify that *EC* Section 305(a)(1), which requires LEAs to inform and receive input from stakeholders on language acquisition programs and language programs as part of the development of the LCAP, as referenced in *EC* sections 52062 and 52068. This regulation is necessary to integrate this activity into the required defined process.

Proposed section 11301(b) is added to provide exemplars of methods an LEA might utilize to inform and receive input from stakeholder engagement sessions. This regulation is beneficial because it encourages LEAs to make use of processes commonly used by LEAs to communicate with stakeholders.

Proposed section 11301(c) is added to ensure the process of engaging parents and stakeholders is transparent by requiring responses to parent and stakeholder comments, consistent with the provisions of *EC* sections 52062 and 52068. This regulation is necessary to ensure that stakeholders have a meaningful opportunity to

fully engage with the LEA regarding language acquisition programs and language programs through processes commonly used by LEAs.

Current section 11309 is deleted to remove the language regarding Parental Exception Waivers. This regulation is deleted because the Parental Exception Waiver section in *EC* sections 310 and 311 were repealed by the CA Ed.G.E. Initiative and the language is no longer required.

Proposed section 11309(a) is added to require that LEAs provide language acquisition programs for English learners consistent with these regulations. This is necessary to ensure consistent opportunities in all LEAs for English learners to learn English and achieve academically as intended by the programs identified in the CA Ed.G.E. Initiative.

Proposed section 11309(b) is added because *EC* Section 305(b) requires LEAs to confer with teachers and administrators with English learner authorizations and expertise regarding the creation and implementation of language acquisition programs. This regulation is necessary to ensure the LEA provides opportunity for school personnel to be consulted during the process to design and implement language acquisition programs.

Proposed section 11309(c) is added to connect *EC* sections 305(a)(1), (2), and 306(c) with the federal obligations for the creation, implementation, and evaluation of language acquisition programs for English learners. The obligations detailed in this section are supported by 20 U.S.C. Section 1703.

Proposed section 11309(c)(1) is added to describe essential considerations that ensure viable programs for English learners and includes both Designated and Integrated English Language Development, defined in proposed sections 11300(a) and (c). Together, these English Language Development instructional designs comprise a comprehensive approach to the delivery of the English Language Development standards, as required in *EC* sections 305(a)(2) and 306(c). This regulation is necessary to ensure that LEAs understand the dual obligation to provide programs that lead English learners to attainment of English proficiency, and address the language needs that provide meaningful access to the curriculum.

Proposed section 11309(c)(2) is added to ensure that *EC* sections 305(a)(1), 305(a)(2) and 306(c) can be implemented by affording the resources necessary for the program to be effective. This regulation is necessary to articulate the expectation that LEAs reasonably calculate and allocate adequate resources to ensure that the implementation of language acquisition programs lead to the desired results.

Proposed sections 11309(c)(3)(A) and (B) are added to require that language acquisition programs provided under *EC* sections 305(a)(1), 305(a)(2), and 306(c), in practice lead to, within a reasonable period of time, both English proficiency and academic achievement in English and, when appropriate a language other than English.

This regulation is necessary to ensure language acquisition programs show effectiveness in pupils learning English and meeting academic achievement goals over a reasonable amount of time based on program design.

Proposed section 11309(d) is added to emphasize that **at a minimum, SEI is provided as an instructional program option for English learners.** This regulation is necessary to ensure compliance with *EC* Section 305(a)(2).

Proposed section 11309(e) is added to further clarify *EC* Section 306 and proposed section 11300(d) of these regulations, which describe language acquisition programs as educational programs designed for English learners. This regulation specifies that a language acquisition program may serve both English learners and native speakers of English. This regulation is necessary to allow LEAs to include both English learners and native speakers of English to participate in language learning.

Current section 11310 is deleted to remove the language defining the State Board of Education (SBE) review of guidelines for Parental Exception Waivers. The Parental Exception Waiver requirement in *EC* sections 310 and 311 was repealed with the passage of the CA Ed. G. E. Initiative, and is no longer required.

Proposed section 11310(a) is added to incorporate the implementation of *EC* Section 310(b)(2) with the *EC* sections 48980 and 48981 protocols for notifying parents of opportunities for language acquisition programs and language programs. This regulation is necessary to ensure meaningful access for all parents to the information on such programs available in the LEA, including the process to request those programs.

Proposed section 11310(b), subdivisions (1) through (3) is added to define the necessary steps to operationalize *EC* Section 310, which delineates the **minimum content required for each description of the language acquisition programs offered for English learners.** This requirement is necessary for parents to have the essential information to assist them in choosing a language acquisition program that best suits their child.

Proposed section 11310(c) is added to clarify that LEAs are **required to notice all parents regarding any language programs available, as applicable.** This regulation is necessary to describe the requirements of the notice, and the program elements that LEAs might also include for the purpose of clear communication with parents about available language programs.

Proposed section 11310(d) is added to define the parameters of “upon enrollment” in *EC* Section 310(b)(2). This regulation is necessary to specify **which students receive notice upon enrollment,** rather than the beginning of the school year, when LEAs customarily provide notice pursuant to *EC* Section 48980.

Proposed section 11310(e) is added to facilitate parent access to notices pursuant to *EC* Section 310(b)(2) regarding language acquisition programs and language programs. This regulation is necessary to comply with the equal opportunity requirements of 20 U.S.C. Section 1703(f).

Proposed section 11311(a)(1–4) is added to specify the actions required of LEAs and schools to comply with *EC* Section 310(a). This regulation is necessary to ensure consistent practice in recording and tracking parent requests, expediting a prompt response to parents when the specified threshold is reached.

Proposed sections 11311(b) is added to provide opportunity for parents who need to submit their request for a language acquisition program verbally. This regulation is necessary to ensure parents are able to submit their language acquisition program request consistent with *EC* Section 310(a).

Proposed sections 11311(c) is added to ensure parents who have questions or otherwise need assistance with requesting a language acquisition program receive such assistance. This regulation is necessary to ensure LEAs assist parents to be able to submit a request for a language acquisition program of their choice.

Proposed section 11311(d) is added to specify the duration of the validity of a parent request for a language acquisition program. Because the time needed to investigate and/or establish a language acquisition program can run from one year to the next, this regulation is necessary to give meaning to a parent request by preventing such requests from becoming irrelevant prior to action by the school or LEA.

Proposed section 11311(e) is added to clarify that students who pre-enroll in a school for the following school year may request a language acquisition program and be counted in the number of requests required to reach a threshold specified in subdivision (g) of this section. This regulation is necessary to facilitate program planning and implementation.

Proposed section 11311(f) is added to clarify and make consistent the process by which schools of an LEA will review parent requests for language acquisition programs to determine when the thresholds specified in *EC* Section 310(a) are reached, and to begin the process identified in section 11311, subdivisions (g) through (i), for determining whether it is possible to establish a language acquisition program.

Proposed section 11311(g)(1) is added to consistently ensure that an LEA communicates in a timely manner with the parents and the school's teachers and administrators that the threshold number of parent requests to establish a language acquisition program has been reached. This regulation is necessary to ensure LEAs demonstrate transparency regarding the status of parent requests and the process that follows.

Proposed section 11311(g)(2) is added to ensure an LEA identifies resources required to implement a language acquisition program in connection with its determination as to whether it is possible to establish a language acquisition program requested by parents. This subdivision is necessary to ensure that LEAs follow a process to identify those resources required to implement any language acquisition program, consistent with the requirements of state and federal law referenced in support of the regulation.

Proposed section 11311(g)(3) is added to require LEAs to determine whether it is possible to establish a language acquisition program in response to parent requests. The 90-day timeline provided in the proposed regulation is a reasonable time for the LEA to make its determination, allowing sufficient time for the LEA to conduct an analysis of essential resources to implement a language acquisition program at the specified school and to notify parents and school personnel of the decision.

Proposed section 11311(g)(3)(A) is added to specify the actions an LEA is to take to move forward with the implementation of a language acquisition program. A reasonable timeline is created to outline actions taken by the LEA and school to implement the requested program. The timeline is shared with parents, school personnel, and the community. This regulation is necessary to support meaningful parent communication regarding the language acquisition program parents have requested.

Proposed section 11311(g)(3)(B) is added to ensure that when an LEA determines it is not possible to establish a language acquisition program requested by parents, it will explain the reason for the determination. This is necessary to ensure that LEAs engage in the process set forth in subdivision 11311(g), and in addition, to assist parents, and the school's teachers and administrators in understanding the reasons for an LEA's determination. This subdivision further clarifies that when an LEA determines it is not possible to implement a language acquisition program requested by parents, the LEA may offer a program other than the program requested.

Proposed section 11311(h) is added to clarify that an LEA must respond to parents' requests for a language acquisition program at the school at which their pupils are enrolled even if the LEA offers the requested language acquisition program at another school of the LEA.

Proposed section 11311(i) is added to clarify that a school may consider requests for a language acquisition program from parents of native speakers of English enrolled in a school when determining whether a threshold set forth in subdivision 11311(g) is met. This is necessary to allow LEAs to establish language acquisition programs in which the participation of native speakers of English is an essential element of the program design and in meeting the program goals.

Proposed section 11312 is added to clarify that when an LEA establishes a language program, or proposes to offer a language program, it is required to create a process for

schools to respond to input from parents and stakeholders regarding the non-English language in which instruction is provided.

Current section 11316 is amended to more clearly align the text of the regulation with the text of these proposed regulations. The title is changed to more accurately reflect the content of the amended section, and to avoid confusion with proposed section 11310. Additionally, "and guardians" is removed to align with the definition "parents" in proposed subdivision 11300(i).

ECONOMIC IMPACT ASSESSMENT PER GOV. CODE SECTION 11346.3(b)

Purpose:

The CDE has determined that only school districts and county offices of education, as defined by *EC* Section 60603(o), are impacted by these amended regulations in order to comply with the provisions of *EC* sections 305, 306, and 310.

Creation or Elimination of Jobs Within the State of California:

The proposed regulations are designed to provide clarity and support the administration of statutory requirements outlined in *EC* sections 305, 306, and 310. Adoption of the proposed regulations will not create new or eliminate existing jobs within the State of California because they apply only to school districts and county offices of education, and do not apply to or impact business.

Expansion of Businesses or Elimination of Businesses Currently Doing Business within the State of California:

The proposed regulations are designed to provide clarity and support the administration of statutory requirements outlined in *EC* sections 305, 306, and 310. Adoption of the proposed regulations will not expand or eliminate businesses currently doing business within the State of California because they apply only to school districts and county offices of education, and do not apply to or impact business.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

These proposed regulations will have no adverse effect nor benefit on worker safety or the State's environment. The anticipated benefit to the proposed regulations is effective state and local implementation of the provisions of the CA Ed.G.E. Initiative.

OTHER REQUIRED SHOWINGS

Studies, Reports or Documents Relied Upon – Gov. Code. Section 11346.2(b)(3):

The SBE did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the adoption, amendment, or repeal of these regulations.

Reasonable Alternatives Considered or Agency's Reasons for Rejecting Those Alternatives – Gov. Code Section 11346.2(b)(5)(A):

No other alternatives were presented to or considered by the SBE.

Reasonable Alternatives that Would Lessen the Impact on Small Businesses – Gov. Code Section 11346.2(b)(5)(B):

The SBE has not identified any adverse impact, therefore no alternatives would impact small business.

Evidence Relied Upon to Support the Initial Determination that the Regulations Will Not Have a Significant Adverse Economic Impact on Business – Gov. Code Section 11346.2(b)(5)(A):

The proposed regulations would not have a significant adverse economic impact on any business. The activities specified in the regulations affect only school districts and county offices of education.

Analysis of Whether the Regulations are an Efficient and Effective Means of Implementing the Law in the Least Burdensome Manner – Gov. Code Section 11346.3(e)

The proposed regulations have been determined to be the most efficient and effective means of implementing the law in the least burdensome manner.

An evaluation of the proposed regulations have determined they are not inconsistent/incompatible with existing regulations, pursuant to Government Section 11346.5(a)(3)(D).

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

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 11. Special Programs

Subchapter 4. English Language Learner Education

§ 11300. Definitions.

"School term" as used in Education Code section 330 means each school's semester or equivalent, as determined by the local governing board, which next begins following August 2, 1998. For multitrack or year round schools, a semester or equivalent may begin on different days for each school track.

(a) "Designated English Language Development" means instruction provided during a protected time during the regular school day, in which there is a focus on state-adopted English language development (ELD) standards to assist English learners to develop critical English language skills necessary for academic content learning in English.

(b) "English learner parent advisory committee," means the committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063 and 52069, and Title 5 California Code of Regulations section 15495(b).

(c) "Integrated English Language Development" means instruction in which the state-adopted ELD standards are used in tandem with the state-adopted academic content standards. Integrated ELD includes specially designed academic instruction in English.

(d) "Language acquisition programs" are educational programs designed for English learners to ensure English acquisition as rapidly and effectively as possible, that provide instruction to these pupils on the state-adopted academic content and ELD standards through Integrated and Designated ELD, and that meet the requirements described in section 11309 of this subchapter.

(e) "Language programs" are programs that are designed to provide opportunities for pupils to be instructed in languages other than English to a degree sufficient to produce proficiency in those languages, consistent with the provisions of Education Code section 305, subdivision (c).

(f) "Local control and accountability plan (LCAP)" means the plan created by a local educational agency (LEA) pursuant to Education Code sections 52060 or 52066, as applicable to the LEA.

(g) "Local educational agency (LEA)" means a school district or county office of education.

(h) "Parent advisory committee" means a committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063 or 50269.

(i) "Parents" means the natural or adoptive parents, legal guardians, or other persons holding the right to make educational decisions for the pupil pursuant to Welfare and Institutions Code section 361 or 727, or Education Code section 56028 or 56055, including foster parents who hold rights to make educational decisions.

(j) "Stakeholders" means parents, pupils, teachers, administrators, other school personnel, and interested members of the public.

(k) "State-adopted academic content standards" means the subject matter covered in Education Code sections 18100, 18101, 51210.2, 51222, 60605, 60605.1, 60605.2, 60605.3, 60605.4, 60605.5, 60605.8, 60605.11, 60605.13.

(l) "State-adopted English language development standards" means standards adopted pursuant to Education Code section 60811.

(m) "Structured English Immersion (SEI)" means a language acquisition program, where nearly all instruction is provided in English, with a curriculum and presentation designed for pupils who are learning English.

Note: Authority cited: Section 33031, Education Code. Reference: Sections 305, 306, 310, 18100, 18101, 51210.2, 51222, 52060, 52063, 52064, 52066, 52067, 52068, 52069, 56028, 56055, 60605, 60605.1, 60605.2, 60605.3, 60605.4, 60605.5, 60605.8, 60605.11, and 60605.13, Education Code; Sections 361 and 727, Welfare and

Institutions Code; Sections 11308, 15495(b), and 15496(f), Title 5 California Code of Regulations.

(a) § 11301. Knowledge and Fluency in English.

~~(a) For purposes of “a good working knowledge of English” pursuant to Education Code Section 305 and “reasonable fluency in English” pursuant to Education Code Section 306(c), an English learner shall be transferred from a structured English immersion classroom to an English language mainstream classroom when the pupil has acquired a reasonable level of English proficiency as measured by any of the state-designated assessments approved by the California Department of Education, or any locally developed assessments.~~

~~—(b) At any time, including during the school year, a parent or guardian may have his or her child moved into an English language mainstream classroom.~~

~~—(c) An English learner may be re-enrolled in a structured English immersion program not normally intended to exceed one year if the pupil has not achieved a reasonable level of English proficiency as defined in Section 11301(a) unless the parents or guardians of the pupil object to the extended placement.~~

~~NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305 and 306(c), Education Code.~~

§ 11301. Community Engagement

(a) As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English learner parent advisory committee and the parent advisory committee, regarding the LEA's existing language acquisition programs and language programs, and establishing other such programs.

(b) An LEA process for informing stakeholders and receiving input may include procedures such as stakeholder surveys, forums, and meetings with school advisory committees, or other groups representing stakeholders.

(c) Prior to adoption of an LEA's LCAP, the school district superintendent or the county superintendent of schools shall include a written response to input received from the LEA's English learner parent advisory committee and parent advisory committee

relating to language acquisition programs and language programs with the superintendent's response as described in Education Code sections 52062 and 52068. NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305, 306, 52060, 52062, 52063, 52066, 52067 and 52068, Education Code.

§ 11309. Parental Exception Waivers.

(a) In order to facilitate parental choice of program, all parents and guardians must be informed of the placement of their children in a structured English immersion program and must be notified of an opportunity to apply for a parental exception waiver. The notice shall also include a description of the locally adopted procedures for requesting a parental exception waiver, and any locally adopted guidelines for evaluating a parental waiver request.

(b) School districts shall establish procedures for granting parental exception waivers as permitted by Education Code sections 310 and 311 which include each of the following components:

(1) Parents and guardians must be provided with a full written description and upon request from a parent or guardian, a spoken description of the structured English immersion program and any alternative courses of study and all educational opportunities offered by the school district and available to the pupil. The descriptions of the program choices shall address the educational materials to be used in the different options.

(2) Pursuant to Education Code section 311(e), parents and guardians must be informed that the pupil must be placed for a period of not less than thirty (30) calendar days in an English language classroom and that the school district superintendent must approve the waiver pursuant to guidelines established by the local governing board.

(3) Pursuant to Education Code sections 311(b) and (c), the school principal and educational staff may recommend a waiver to a parent or guardian. Parents and guardians must be informed in writing of any recommendation for an alternative program made by the school principal and educational staff and must be given notice of their right to refuse to accept the recommendation. The notice shall include a full description of the recommended alternative program and the educational materials to be used for the alternative program as well as a description of all other programs

1 available to the pupil. If the parent or guardian elects to request the alternative program
2 recommended by the school principal and educational staff, the parent or guardian must
3 comply with the requirements of Education Code section 310 and all procedures and
4 requirements otherwise applicable to a parental exception waiver.

5 ~~(4) Parental exception waivers shall be granted unless the school principal and~~
6 ~~educational staff have determined that an alternative program offered at the school~~
7 ~~would not be better suited for the overall educational development of the pupil.~~

8 ~~—(c) All parental exception waivers shall be acted upon by the school within twenty~~
9 ~~(20) instructional days of submission to the school principal. However, parental waiver~~
10 ~~requests under Education Code section 311(c) shall not be acted upon during the thirty~~
11 ~~(30)-day placement in an English language classroom. These waivers must be acted~~
12 ~~upon either no later than ten (10) calendar days after the expiration of that thirty (30)-~~
13 ~~day English language classroom placement or within twenty (20) instructional days of~~
14 ~~submission of the parental waiver to the school principal, whichever is later.~~

15 ~~—(d) In cases where a parental exception waiver pursuant to Education Code sections~~
16 ~~311(b) and (c) is denied, the parents and guardians must be informed in writing of the~~
17 ~~reason(s) for denial and advised that they may appeal the decision to the local board of~~
18 ~~education if such an appeal is authorized by the local board of education, or to the~~
19 ~~court.~~

20 ~~—(e) For waivers pursuant to Education Code section 311(a) and for students for~~
21 ~~whom standardized assessment data is not available, school districts may use~~
22 ~~equivalent measures as determined by the local governing board.~~

23 ~~NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305, 310~~
24 ~~and 311, Education Code.~~

26 **§ 11309. Language Acquisition Programs**

27 (a) LEAs shall provide language acquisition programs for English learners consistent
28 with these regulations.

29 (b) Whenever an LEA establishes a language acquisition program, the LEA shall
30 confer with school personnel, including teachers and administrators with authorizations

1 required to provide or oversee programs and services for English learners, regarding
2 the design and content of the language acquisition program.

3 (c) Any language acquisition program provided by an LEA shall:

4 (1) Be designed using evidence-based research and include both Designated and
5 Integrated ELD;

6 (2) Be allocated sufficient resources by the LEA to be effectively implemented,
7 including, but not limited to certificated teachers with the appropriate authorizations,
8 necessary instructional materials, pertinent professional development for the proposed
9 program, and opportunities for parent and community engagement to support the
10 proposed program goals; and

11 (3) Within a reasonable period of time, lead to:

12 (A) Proficiency in English, and, if applicable, another language; and

13 (B) Achievement of the state-adopted content standards in English, and, if
14 applicable, another language.

15 (d) At minimum, an LEA shall provide a program of SEI for English learners.

16 (e) An LEA may provide language acquisition programs in addition to SEI, including
17 programs that integrate instruction for native speakers of English and native speakers of
18 another language, and meet the requirements of subdivision (c).

19 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305, 306,
20 44253.3, 44253.4, Education Code; 20 U.S.C. Sections 1703 and 6311.

21
22 **§ 11310. State Board of Education Review of Guidelines for Parental Exception**
23 **Waivers.**

24 (a) Upon written request of the State Board of Education, school district governing
25 boards shall submit any guidelines or procedures adopted pursuant to Education Code
26 section 311 to the State Board of Education for its review.

27 —(b) Any parent or guardian who applies for a waiver under Education Code section
28 311 may request a review of the school district's guidelines or procedures by the State
29 Board of Education. The sole purpose of the review shall be to make a determination as
30 to whether those guidelines or procedures comply with the parental exception waiver
31 guidelines set forth in Section 11309.

Commented [OK1]: Does this mean academic language courses that include EOs? Like we're doing with SERP?

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305, 310 and 311, Education Code.

§ 11310. Parental Notice.

(a) An LEA shall notify parents of the language acquisition programs and any language programs provided by the LEA at the time and in the manner specified in Education Code sections 48980 and 48981. The notice specified in this section shall include a description of the process for parents to request a language acquisition program or language program for their child.

(b) The notice for language acquisition programs shall include:

(1) A description of any such programs provided, including SEI;

(2) Identification of any language to be taught in addition to English, if applicable;

and

(3) The information set forth in section 11309(c).

(c) The notice for language programs shall specify the language(s) to be taught, and may include the program goals, methodology used, and evidence of the proposed program's effectiveness.

(d) Parents of pupils enrolling in the LEA after the beginning of the academic school year shall be provided the notice described in subdivision (a) upon enrollment. An LEA may provide notice to parents at additional times throughout the year.

(e) The notice to parents pursuant to this section shall be provided as described in subdivision (a). Additionally, verbal notice shall be provided, upon request, as reasonably necessary to effectuate notice to the parents.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305, 306, 310, 48980, and 48981, Education Code; 20 U.S.C. sections 1703(f), 6311 and 6318.

§ 11311. Parent Requests for Language Acquisition Programs.

(a) An LEA shall establish a process for schools of the LEA to receive and respond to requests from parents of pupils enrolled in the school to establish language acquisition programs other than, or in addition to, such programs provided at the school. The LEA process shall require each school to make a written record of each request, including at least the following:

1 (1) The date of the request;

2 (2) The names of the parent and pupil;

3 (3) A general description of the request; and

4 (4) The pupil's grade level on the date of the request.

5 (b) Each school shall maintain a written record of verbal requests that includes the
6 information set forth in subdivision (a).

7 (c) Each school shall assist parents in clarifying requests, as needed.

8 (d) Each school shall retain written records of parent requests for language
9 acquisition programs for at least three years from the date of the request.

10 (e) A parent whose pupil is enrolled in a school for attendance in the next school
11 year may submit a request for a language acquisition program.

12 (f) Each school shall monitor the number of parent requests for language acquisition
13 programs on a regular basis, and notify the LEA immediately upon reaching a threshold
14 specified in subdivision (g).

15 (g) When the parents of 30 pupils or more enrolled in a school, or when the parents
16 of 20 pupils or more in the same grade level enrolled in a school, request the same or
17 substantially similar type of a language acquisition program, the LEA shall respond by
18 immediately taking the following actions:

19 (1) Notify the parents of pupils attending the school, the school's teachers, and
20 administrators, in writing, of the parents' requests for a language acquisition program;

21 (2) Identify resources necessary to implement a language acquisition program,
22 including but not limited to certificated teachers with the appropriate authorizations,
23 necessary instructional materials, pertinent professional development for the proposed
24 program, and opportunities for parent and community engagement to support the
25 proposed program goals; and

26 (3) Determine, within 90 calendar days of reaching the threshold described in
27 subdivision (g), whether it is possible to implement the requested language acquisition
28 program; and provide notice, in writing, to parents of pupils attending the school, the
29 school's teachers, and administrators, of its determination.

(A) In the case of an affirmative decision to implement a language acquisition program at the school, create and publish a reasonable timeline of actions necessary to implement the language acquisition program.

(B) In the case where the LEA determines it is not possible to implement a language acquisition program requested by parents, the LEA shall provide an explanation of the reason(s) the program cannot be provided, and may offer an alternate option that can be implemented at the school.

(h) Each school shall follow the process set forth in subdivision (f), even when the LEA provides the requested language acquisition program at another school of the LEA at the time the threshold specified in subdivision (g) is met.

(i) A school may consider requests from parents of pupils enrolled in the school who are native speakers of English when determining whether a threshold specified in subdivision (g) is reached.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305 and 310, 44253.3, 44253.4 Education Code; 20 U.S.C., Section 1703(f).

§ 11312. Language Programs

If an LEA provides a language program or proposes to offer a language program, the LEA shall establish a process for schools of the LEA to receive and respond to input from parents and stakeholders regarding the non-English language in which instruction is provided.

NOTE: Authority cited: Section 33031. Reference: Section 305(c), Education Code.

§ 11316. ~~Language of Parental Notice to Parents or Guardians.~~

~~All notices and other communications to parents or guardians required or permitted by these regulations must be provided in English and in the parents' or guardians' primary language to the extent required under Education Code section 48985.~~

~~NOTE: Authority cited: Section 33031, Education Code. Reference: Section 313 and 48985, Education Code; 20 U.S.C Section 1703(f) and 6318.~~