

State of California

Department of Education

LAST MINUTE MEMORANDUM

DATE: July 6, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: Geno Flores, Deputy Superintendent
Assessment and Accountability Branch

RE: Item No. 10

SUBJECT: California English Language Development Test (CELDT): Adopt
Amendments to Title 5 Regulations

Background

At the May 2004 meeting, the State Board of Education (SBE) initiated the rulemaking process regarding the California English Language Development Test (CELDT). SBE directed the public hearing for this rulemaking process be conducted by staff in accordance with subdivision (b) of Section 18460 of Title 5 of the California Code of Regulations.

Report on Public Hearing

Consistent with the requirements of the Administrative Procedure Act, the public hearing regarding the proposed regulations was scheduled for Tuesday, July 6, 2004, at the California Department of Education, 1430 N Street, Room 1801, Sacramento, California, and beginning at 8:00 a.m. An audiotape of the public hearing was made.

The public hearing was called to order at 8:30 a.m. on the prescribed date and at the prescribed location. One person present desired to comment on the proposed regulations. Following the comment, the public hearing was recessed for one hour in the event that a potential presenter might have been delayed. The public hearing was reconvened at 9:41 a.m. No one wishing to present comments had arrived. The public hearing was adjourned at 9:42 a.m.

The attached CELDT Regulations have been revised to incorporate substantive and technical comments from California Department of Education (CDE), State Board of Education (SBE), and U S Department of Education, Office for Civil Rights staff. These revisions will be sent out for a 15-day public comment period. CDE and SBE staff made several technical changes to ensure consistency in language; made substantive changes to clarify terms necessary for the continuing successful administration of the CELDT program and to bring the CELDT into compliance with the accountability requirements under Title III, Part A, Section 3122 of the Elementary and Secondary Education Act (Public Law 107-110).

SBE has illustrated changes to the original text in the following manner: regulation language originally proposed is underlined, language originally deleted is in ~~strikeout~~. The 15-Day Notice illustrates deletions from the language originally proposed using a

~~“bold-strikeout”~~; and additions to the language originally proposed using a **bold double-underline**.

The recommendation is that the SBE approve the proposed amendments to the regulations, the draft Final Statement of Reasons, and direct staff to continue the rulemaking process by sending the regulations out to the public for an additional fifteen day comment period.

Attachment 2: Final Statements of Reasons (including Summary of Written Comments Received and Initial Responses to Written Comments) (3 Pages)

Attachment 3: Amended California English Language Development Test Regulations (19 Pages)

FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

The regulations were further amended to clarify definitions and procedures necessary for the administration of the CELDT and to ensure consistency among the testing programs to the extent possible. The use of variations was also clarified including specification of those modifications which are permissible on the CELDT.

Apportionment language was also amended to ensure consistency among the testing programs and to clarify the manner in which districts would receive the apportionment funds. Language was also added to ensure that individual test scores and identifying information was kept confidential in compliance with state and federal law.

SUMMARY OF COMMENTS RECEIVED AND INITIAL RESPONSES TO COMMENTS¹

As of July 6, 2004, 5:00 P.M., six written comments regarding the proposed revisions to the CELDT Regulations were received by the California Department of Education (CDE) in accordance with the Administrative Procedure Act. Among the comments received:

- One general statement was made from Hazel Anderson, CELDT Coordinator, Santa Barbara High school, regarding students who have achieved English proficiency on the CELDT but are unable to meet the additional criteria for reclassification consequently must retake the CELDT.

Response: The comment does not address the substance of any of the proposed amendments or new regulations.

- One general statement was made from Judy Lewis Director, State and Federal Programs, Folsom regarding the definition of English learners. She suggested that "English learner" be replaced with "students not yet English proficient." She is also states that there are no statewide criteria for the classification of students as Fluent English Proficient (FEP. or English learner (EL).

Response: Section 60810 Education Code requires districts to use the CELDT to determine if students are English learners. Section 313 (d), Education Code lists four criteria and requires the use of SBE adopted guidelines for reclassification of students to FEP

The additional comments are summarized below, by section number.

11512 (d) District Documentation and Pupil records

- Debra Back, Staff Attorney, Children's Advocacy Institute commented that the 20 calendar day framework in which to transfer student CELDT records was problematic, particularly for foster children.

¹ Subject to modification prior to the submission of the Final Statement of Reasons to the Office of Administrative Law.

Response: After lengthy discussion, CDE staff determined that the 20 calendar days was an appropriate and reasonable length of time to require sending districts to transfer pupil CELDT records. The 20 day requirement is within the 30 calendar days required for initial assessment. The requirement for sending foster children's records within two business days is included in statute and thus is not required to be incorporated into the CELDT regulations

- Atsuko Brewer, School and District Accountability Division, CDE, commented that in section 11510(n) the definition of primary language should include "...the language parents or guardians most frequently use when speaking to the pupil."

Response: The wording on this section was changed to reflect that clarification.

Section 11516.6 (c) Modifications/Alternate Assessments for Pupils with Disabilities

- Louis Garcia, Attorney for Office for Civil rights, U. S. Department of Education commented that scores marked "non valid" for students with disabilities who take an alternate assessment, can still provide useful information for instructional purposes although the scores are not psychometrically valid, and should be thus noted in the Regulations.

Response: The suggested notation is not an appropriate addition to the regulations but will be added to the individual student score reports and included in the CELDT Teachers Guide and Assistance Packet distributed to districts.

- Ana Marsh, English Learner Monitoring Unit, CDE was concerned that modifications for students with disabilities were no longer allowed. She stated that removal of modifications would take away the use of a consistent and formalized tool for many students identified with low incidence disabilities such as hearing impairments.

Response: The use of modifications for pupils with disabilities if they have an Individualized Education Program (IEP) that designates the need for such modifications has been included in the regulations

One comment was received at the public hearing concerning adequate privacy protection with the cutoff of 4 pupils (suppressing aggregate results for groups of 3 or fewer),

Response. From the beginning CELDT has used a cutoff of 4 (suppressing aggregate results for groups of 3 or fewer). This decision was widely discussed at the time it was made and is noted on the CELDT website.

CELDT used 4 pupils for two reasons:

1. It provided a higher level of confidentiality protection than 11 does for STAR given that 25% of students take CELDT (versus nearly all for STAR). That is, CELDT enjoys an additional layer of confidentiality protection because there is no way for someone

without access to student records to know whether a particular student took the test. A rough estimate is that STAR needs a rule of 12 to have the same level of confidentiality protection that CELDT now has.

2. It allows CDE to display aggregate information for a reasonable number of schools (if 11 were used with CELDT the majority of schools would not display any aggregate CELDT results ... at 4 we probably lose more schools than STAR). We estimate that the rule of 11 would censor 60 - 80 percent of the aggregate CELDT results. CELDT has used its cutoff of 4 pupils for three years with no complaints or known breaches of confidentiality.

If CELDT is to increase the cutoff, it will reduce the value of the CELDT website.

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TITLE 5. Education
Division 1. State Department of Education
Chapter 11. Special Programs
Subchapter 7.5. California English Language Development Test
Article 1. General

Amend Sections 11510, 11511, 11511.5, 11512, 11512.5, 11513, 11513.5, 11514, 11516, 11516.5 to read:

§11510. Definitions.

For the purposes of the test required by Education Code Section 313(a), referred to as the California English Language Development Test, the following definitions shall apply:

(a) "Accommodation" is any variation in the assessment environment or process that does not fundamentally alter what the test measures or affect the comparability of scores. "Accommodations" may include variations in scheduling, setting, aids, equipment, and presentation format.

(b)(a) An "administration" means a pupil's attempt to take all sections of the California English Language Development Test, including ~~speaking~~, listening, speaking, reading, and writing.

(c) "Alternate Assessment" is the alternate means to measure the English language proficiency of pupils with disabilities whose Individualized Education Program Team has determined that they are unable to participate in the California English Language Development Test even with accommodations or variations.

(d)(b) "Annual assessments" are administrations of the California English Language Development Test to enrolled pupils who are currently identified as English learners.

(e)(c) "Annual assessment window" means the period of time designated by the Superintendent of Public Instruction and the State Board of Education for the annual assessments conducted using the California English Language Development Test begins on July 1 and ends on October 31 of each school year. Initial assessments, as defined in subdivision (g), may be administered during the annual assessment window.

1 (f)(d) "Date of first enrollment" is the date on which the pupil is scheduled to be in
2 attendance in a California public school for the first time. "Eligible pupil" means one who
3 is enrolled in a California public school in kindergarten or any of grades 1 through 12
4 with a native language other than English or who is currently identified as an English
5 learner.

6 (g) "Department" is the California Department of Education.

7 (h) "District coordinator" is an employee of the school district designated by the
8 superintendent of the district to oversee the administration of the CELDT within the
9 district.

10 (i)(e) "Excessive materials" is the difference between the sum of the number of tests
11 scored and 90 percent of the tests ordered by the district.

12 (j)(h)(e) "Grade level" means is the grade assigned to the pupil by the school district
13 at the time of testing.

14 (k)(i)(f) "Home language survey" is a form administered by the school district to be
15 completed by the pupil's parent or guardian at the time of first enrollment in a California
16 public school indicating language use in the home by the pupil or family which, if
17 completed, would fulfill the school district's obligation required by Education Code
18 sSection 52164.1.

19 (l)(i)(g) "Initial assessment" is the are administrations of the California English
20 Language Development Test to a pupils who are identified as having a native language
21 other than English, based on the home language survey, and for whom there is no
22 record of English language development assessment results whose primary language is
23 other than English, as determined by the Home Language Survey, and who has not
24 previously been assessed for English language proficiency in a California public school.

25 (m)(k) "Modification" is any variation in the assessment environment or process that
26 fundamentally alters what the test measures or affects the comparability of scores.

27 (n)(j) "Primary" language is the language first learned by the pupil, most frequently
28 used at home, or most frequently spoken by the parents or adults in the home, when
29 speaking with the pupil.

30 (o)(m) "Proctor" is an employee of a school district who has received training
31 specifically designed to prepare him or her to assist the test examiner in administration
32 of the California English Language Development Test.

1 (p) "Pupil" is a person enrolled in a California public school in kindergarten through
2 grade 12, inclusive, age 3 to age 21 inclusive, including those pupils placed in a
3 nonpublic school through the Individualized Education Program (IEP) process pursuant
4 to Education Code Section 56365.

5 (g)(h) "Records of results" are:

6 (1) Student test results from the pupil's cumulative file;

7 (2) Parent notification letter of student results;

8 (3) Previous or current school district pupil electronic data files;

9 (4) Student Proficiency Level Reports; and

10 (5) Verification from prior school district.

11 (r)(e)(h) "School district" is a: includes elementary, high school, and unified school
12 districts, county offices of education; and any charter school that for assessment
13 purposes does not elect to be part of the school district or county office of education that
14 granted the charter; and any charter school chartered by the State Board of Education.

15
16 ~~(1) School district;~~

17 ~~(2) County office of education; and any~~

18 ~~(3) Charter school that does not elect to be part of the school district or county~~
19 ~~office of education that granted the charter, and any~~

20 ~~(4) Charter school chartered by the State Board of Education.~~

21 (s)(e) "Scribe" is an employee of the school district, or a person assigned by a
22 nonpublic school to implement a pupil's Individualized Education Program (IEP) and is
23 required to transcribe a pupil's responses to the format required by the test. The pupil's
24 parent or guardian is not eligible to be a scribe.

25 (t) "Site coordinator" is an employee of the school district designated by the district
26 coordinator or the superintendent, or a person assigned by a nonpublic school to
27 implement a student's IEP, who oversees the administration of the CELDT at each test
28 site at which the examination is given.

29 (u)(e) "Test" is the California English Language Development Test.

30 (v)(e) "Test Examiner" is an employee of the school district who is proficient in
31 English and has received training specifically designed to prepare him or her to
32 administer the California English Language Development Test.

1 ~~(w)(e)(i)~~ "Test materials" are materials necessary for administration of the California
2 English Language Development Test, including but not limited to audio-cassettes, test
3 manuals, pupil test booklets, forms for recording pupil responses and background
4 information, video tapes, answer keys, ~~and~~ scoring rubrics and special test versions and
5 any other materials developed and provided by the contractor.

6 ~~(x)(t)~~ "Variation" is a change in the manner in which a test is presented or
7 administered, or in how a test taker is allowed to respond, and includes, but is not
8 limited to, accommodations and modifications.

9 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306, 313,
10 52164.1 and 60810, Education Code.

11 12 **Article 2. Administration**

13 **§11511. English Language Development Initial and Annual Assessments.**

14 (a) Initial assessments shall be administered as follows:

15 ~~(1)(a)~~ Any pupil whose ~~native~~ primary language is other than English as determined
16 by the home language survey and who has not previously been identified as an English
17 learner by a California public school or for whom there is no record of results from an
18 administration of an English language development proficiency test, shall be assessed
19 for English language proficiency with the ~~California English Language Development~~
20 Test within 30 calendar days after the date of first enrollment in the school district a
21 California public school, or within 60 calendar days before the date of first enrollment,
22 but not before July 1 of that school year.

23 (b) Annual assessments shall be administered as follows:

24 ~~(b)~~ The English language development proficiency of all currently enrolled English
25 learners shall be assessed by administering the ~~California English Language~~
26 ~~Development~~ Test during the annual assessment window.

27 (c) Both Initial and Annual assessments shall be administered:

28 ~~(e)~~ ~~The school district shall administer test~~ in accordance with the test publisher's
29 contractor's directions, except as provided for in by Sections 11516.5, 11516.5 and
30 11516.6.

31 (d) For both Initial and Annual assessments ~~If the school district places an order for~~
32 ~~tests for any school that is excessive, the school district is responsible for the cost of~~

1 ~~materials for the difference between the sum of the number of pupil tests scored and 90~~
2 ~~percent of the tests ordered. the school district is responsible for the cost of excessive~~
3 ~~materials ordered by the school district.~~ In no event shall the cost to the school district
4 for replacement or excessive materials exceed the amount per test booklet and
5 accompanying material that is paid to the test ~~publisher~~ contractor by the California
6 Department of Education as part of the contract with the test ~~publisher~~ contractor for the
7 current year.

8 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 306 (a),
9 313 and 37200, Education Code.

11 **§11511.5. Reporting to Parents.**

12 For each pupil assessed using the ~~California English Language Development Test,~~
13 each school district shall notify parents or guardians of the pupil's results within 30
14 calendar days following receipt of results of testing from the test ~~publisher~~ contractor.
15 ~~Such~~ The notification shall comply with the requirements of Education Code Section
16 48985.

17 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306 (a),
18 313 and 48985, Education Code.

20 **§ 11511.6. Reporting Test Scores.**

21 No aggregate or group scores or reports that are compiled pursuant to Education
22 Code Section 60851 shall be reported electronically, in hard copy, or in other media, to
23 any audience other than the school or school district where the pupils were tested, if the
24 aggregate or group scores or reports are composed of three (3) or fewer individual pupil
25 scores. In each instance in which no score is reported for this reason, the notation shall
26 appear: "The number of pupils in this category is too small for statistical accuracy or
27 privacy protection." In no case shall any group score be reported that would deliberately
28 or inadvertently make public the score or performance of any individual student.

29 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60810 and
30 60812, Education Code.

32 **§11512. District Documentation and Pupil Records.**

1 (a) The school district shall maintain a record of all pupils who participate in each
2 administration of the ~~California English Language Development~~ Test. This record shall
3 include the following information for each administration:

4 (1) The name of each pupil who took the test.

5 (2) The grade level of each pupil who took the test.

6 (3) The date on which the administration of the test was completed for each pupil.

7 (4) The test results obtained for each pupil.

8 (b) The school district shall enter in each pupil's record the following information for
9 each administration of the test:

10 (1) The date referred to by subdivision (a)(3).

11 (2) The pupil's test results.

12 (c) The record required by subdivision (a) shall be created and the information
13 required by subdivision (b) of this section shall be entered in each pupil's record prior to
14 the subsequent administration of the ~~California English Language Development~~ Test.

15 (d) In order to comply with the accountability requirements under Title III of No Child
16 Left Behind, part A, Section 3122 of the Elementary and Secondary Education Act
17 (Public Law 107-110), whenever a pupil transfers from one school district to another,
18 the pupil's CELDT records including the information specified in Section 11512(a) shall
19 be transferred by the sending district within 20 calendar days upon a request from the
20 receiving district where the pupil is now enrolled.

21 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306 (a),
22 313(b), 49068 and 60810(d), Education Code.

23
24 **§11512.5. Data for Analysis of Pupil Proficiency.**

25 (a) Each school district shall provide the ~~publisher~~ contractor of the ~~California~~
26 ~~English Language Development~~ Test the following information for each pupil tested for
27 purposes of the analyses and reporting required pursuant to Education Code sections
28 60810(c) and 60812, and for accountability requirements under Title III of No Child Left
29 Behind, Part A, Section 3122 of the Elementary and Secondary Education Act (Public
30 Law 107-110):

31 (1) Pupil's full name;

32 (2)(4) Date of birth;

1 (3) County, district, school code;

2 (4)(2) Date that testing is was completed;

3 (5)(3) Grade level;

4 (6)(4) Gender;

5 (7)(5) Native Primary language;

6 (6) English language fluency, if known;

7 (8)(7) ~~Special p~~Program participation;

8 (9)(8) Special education and 504 plan status;

9 (10) ~~Primary Disability or Handicapping condition;~~

10 (9) ~~Nonstandard Test administration;~~

11 (11)(10) Ethnicity;

12 (12)(11) Time Year first enrolled in a United States schools; and

13 (13)(12) ~~District and s~~School mobility;

14 (14) CELDT scores from the previous administration;

15 (15) Purpose: an initial assessment or an annual assessment;

16 (16) District and County of residence for pupils with disabilities;

17 (17)(16) Grade level from the previous CELDT administration;

18 (18)(17) Use of ~~t~~Test modifications and/or accommodations;

19 (19)(18) Use of Alternate Assessment(s); and

20 (20)(19) California School Information Services (CSIS) student number once
21 assigned identifier beginning July 1, 2004.

22 (b) The demographic information required by subdivision (a) is for the purposes of
23 aggregate analyses and reporting only.

24 ~~(c) School districts shall provide the same information for each eligible pupil enrolled~~
25 ~~in an alternative or off-campus program as is provided for all other eligible pupils.~~

26 *NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 313,*
27 *60810 and 60812, Education Code.*

28
29 **§11513. California English Language Development Test District Coordinator.**

30 (a) On or before April 1, or Sixty Nninety calendar days before the beginning of the
31 annual assessment window of each school year, the superintendent of each school
32 district shall designate from among the employees of the school district a California
33 English Language Development Test district coordinator. The superintendent shall

1 notify the ~~publisher~~ contractor of ~~for~~ the ~~California English Language Development~~ Test
2 of the identity and contact information for the California English Language Development
3 Test district coordinator. The California English Language Development Test district
4 coordinator, or the school district superintendent or his or her designee, shall be
5 available throughout the year and shall serve as the liaison between the school district
6 and the California Department of Education for all matters related to the ~~California~~
7 ~~English Language Development~~ Test. At the discretion of the district superintendent, the
8 contact information may include an electronic email address.

9 (b) The California English Language Development Test district coordinator's
10 responsibilities shall include, but are not limited to, the following:

11 (1) Responding to correspondence and inquiries from the ~~publisher~~ contractor in a
12 timely manner and as provided in the ~~publisher's~~ contractor's instructions.

13 (2) Determining school district and individual school test and test material needs in
14 conjunction with the test ~~publisher~~ contractor.

15 (3) *Overseeing the acquisition and distribution of tests and test materials to*
16 *individual schools and sites.*

17 (4) Maintaining security over the ~~California English Language Development~~ Test and
18 test data using the procedure set forth in Section 11514. The ~~California English~~
19 ~~Language Development~~ Test district coordinator shall sign the Test Security Agreement
20 set forth in Section 11514 with the test contractor prior to receipt of the test materials. A
21 copy of the Test Security Agreement shall be maintained at the district office for 12
22 months from the date signed.

23 (5) Overseeing the administration of the ~~California English Language Development~~
24 Test to eligible pupils.

25 (6) Overseeing the collection and return of all completed test materials and test data
26 to the ~~publisher~~ contractor.

27 (7) Assisting the test ~~publisher~~ contractor in the resolution of any discrepancies in
28 the test information and materials.

29 (8) Ensuring that all test materials are received from school test sites within the
30 school district in sufficient time to satisfy the requirements of subdivision (10).

31 (9) Ensuring that all tests and test materials received from school test sites within the
32 school district have been placed in a secure school district location upon receipt of
33 those tests.

1 (10) Ensuring that all test materials are inventoried, packaged, and labeled in
2 accordance with instructions from the ~~publisher~~ contractor. The completed test materials
3 shall be returned to the test contractor ~~no more than ten (10) working days after the~~
4 ~~close of the testing window for the annual assessment, and at the date specified~~
5 monthly by the test contractor for initial assessments of pupils at the date specified
6 monthly by the test contractor for initial assessments of pupils but no later than ten (10)
7 working days after the close of the testing window for the annual assessment.

8 (11) Ensuring that the ~~California English Language Development~~ Tests and test
9 materials are retained in a secure, locked location, in the unopened boxes in which they
10 were received from the test ~~publisher~~ contractor, from the time they are received in the
11 school district until the time they are delivered to the test sites.

12 (12) Overseeing the collection of all pupil data to comply with Sections 11512 and
13 11512.5.

14 (13) Immediately notifying the test contractor of any security breaches or testing
15 irregularities in the district before, during, or after the administration of the test.

16 ~~(c) The California English Language Development Test district coordinator shall~~
17 ~~certify to the California Department of Education at the time of each shipment of~~
18 ~~materials to the publisher contractor that the school district has maintained the security~~
19 ~~and integrity of the test, collected all data and information as required, and returned all~~
20 ~~test materials, answer documents, and other materials included as part of the California~~
21 ~~English Language Development Test in the manner and as otherwise required by the~~
22 ~~publisher contractor.~~

23 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 313 and
24 60810 (d), Education Code.

25
26 **§11513.5. California English Language Development Test Site Coordinator.**

27 (a) Annually, the superintendent of the school district shall designate a California
28 English Language Development Test site coordinator for each test site, including, but
29 not limited to, each charter school, each court school, and each school or program
30 operated by a school district, from among the employees of the school district. The
31 California English Language Development Test site coordinator, or the site principal or
32 his or her designee, shall be available to the California English Language Development

1 Test district coordinator for the purpose of resolving issues that arise as a result of the
2 administration of the California English Language Development Test.

3 (b) The California English Language Development Test site coordinator's
4 responsibilities shall include, but not be limited to, all of the following:

5 (1) Determining site test and test material needs.

6 (2) Arranging for test administration at the site.

7 (3) Completing the Test Security Agreement and Test Security Affidavit prior to the
8 receipt of test materials.

9 (4) Delivering test materials only to those persons who have executed Test Security
10 Agreements and who are administering the test.

11 (5)(4) Overseeing test security requirements, including collecting and delivering all
12 completed filing all Test Security Affidavit forms to the district office from the test
13 examiners and other site personnel involved with testing.

14 (6)(5) Maintaining security over the test and test data as required by Section 11514.

15 (7)(6) Overseeing the acquisition of tests from the school district and the distribution
16 of tests to the test administrator(s) examiner(s).

17 (8)(7) Overseeing the administration of the California English Language
18 Development Test to eligible pupils at the test site.

19 (9)(8) Overseeing the collection and return of all testing materials to the California
20 English Language Development Test district coordinator.

21 (10)(9) Assisting the California English Language Development Test district
22 coordinator and the test publisher contractor in the resolution of any discrepancies
23 between the number of tests received from the California English Language
24 Development Test district coordinator and the number of tests collected for return to the
25 California English Language Development Test district coordinator.

26 (11)(10) Overseeing the collection of all pupil data required by Sections 11512 and
27 11512.5.

28 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 313 and
29 60810(d), Education Code.

30
31 **§11514. Test Security.**

1 (a) The ~~California English Language Development Test~~ site coordinator shall ensure
2 that strict supervision is maintained over each pupil while the pupil is being administered
3 the ~~California English Language Development Test~~.

4 (b) Access to the ~~California English Language Development Test~~ test materials is
5 limited to pupils being administered the ~~California English Language Development Test~~
6 test and employees of the school district directly responsible for administration of the
7 ~~California English Language Development Test~~ test who have signed the Test Security
8 Affidavit.

9 (c) All ~~California English Language Development Test~~ district and test site
10 coordinators shall sign the ~~California English Language Development Test~~ Security
11 Agreement set forth in subdivision (d).

12 (d) The ~~California English Language Development Test~~ Security Agreement shall be
13 as follows:

14 CALIFORNIA ENGLISH LANGUAGE DEVELOPMENT TEST
15 TEST SECURITY AGREEMENT

16 (1) I will take all necessary precautions to safeguard all tests and test materials by
17 limiting access to persons within the school district with a responsible, professional
18 interest in the test' security.

19 (2) I will keep on file the names of persons having access to tests and test materials.
20 I will require all persons having access to the materials to sign the ~~California English~~
21 ~~Language Development Test~~ Security Affidavit that will be kept on file in the school
22 district office.

23 (3) I will keep the tests and test materials in a secure, locked location, limiting
24 access to only those persons responsible for test security, except on actual testing
25 dates.

26 By signing my name to this document, I am assuring that I ~~and anyone having~~
27 ~~access to the test materials~~ will abide by the above conditions.

28 By: _____

29 Title: _____

30 School District: _____

31 Date: _____

1 (e) Each ~~California English Language Development Test~~ site coordinator shall
2 deliver the tests and test materials only to those persons actually administering the
3 ~~California English Language Development Test~~ test on the date of testing and only upon
4 execution of the ~~California English Language Development Test~~ Security Affidavit set
5 forth in subdivision (g).

6 (f) All persons having access to the ~~California English Language Development Test~~
7 test, including but not limited to the ~~California English Language Development Test~~ site
8 coordinator, test administrators examiners, and test proctors, shall acknowledge the
9 limited purpose of their access to the test by signing the ~~California English Language~~
10 ~~Development Test~~ Security Affidavit set forth in subdivision (g).

11 (g) The ~~California English Language Development Test~~ Security Affidavit shall be
12 completed by each test examiner and test proctor:

13 CALIFORNIA ENGLISH LANGUAGE DEVELOPMENT TEST
14 SECURITY AFFIDAVIT

15 I acknowledge that I will have access to the ~~California English Language~~
16 ~~Development Test~~ test for the purpose of administering the test. I understand that these
17 materials are highly secure, and it is my professional responsibility to protect their
18 security as follows:

19 (1) I will not divulge the contents of the test to any other person through verbal,
20 written, or any other means of communication.

21 (2) I will not copy any part of the test or test materials unless necessary to administer
22 the test.

23 (3) I will keep the test secure until the test is actually distributed to pupils.

24 (4) I will limit access to the test and test materials by test examinees to the actual
25 testing periods when they are taking the test.

26 (5) I will collect and account for all materials following each period of testing and I
27 will not permit pupils to remove test materials from the room where testing takes place.

28 (6) I will not disclose, ~~or allow to be disclosed,~~ the contents of, or the scoring keys to,
29 the test instrument.

30 (7) I will not review any test questions, passages or other test items with pupils or
31 any other person before, during, or following test.

1 (8) I will not develop scoring keys or review or score any pupil's responses except as
2 required by the contractor's administration manual(s) to prepare answer documents for
3 machine or other scoring.

4 (9) I will administer the test(s) in accordance with the directions for test
5 administration set forth in the contractor's manual for test administration.

6 (10)(7) I will return all test materials to the designated California English Language
7 Development Test site coordinator upon completion of the test.

8 (11)(8) I will not interfere with the independent work of any pupil taking the test and I
9 will not compromise the security of the test by means including, but not limited to:

10 (A) Providing ~~eligible~~ pupils with access to test questions prior to testing.

11 (B) Copying, reproducing, transmitting, distributing or using in any manner
12 inconsistent with test security all or any portion of any secure California English
13 Language Development Test booklet or document.

14 (C) Coaching ~~eligible~~ pupils during testing or altering or interfering with the pupil's
15 responses in any way.

16 (D) Making answer keys available to pupils.

17 (E) Failing to follow security rules for distribution and return of secure tests as
18 directed, or failing to account for all secure test materials before, during, and after
19 testing.

20 (F) Failing to follow test administration directions specified in test administration
21 manuals.

22 (G) Participating in, directing, aiding, counseling, assisting in, or encouraging any of
23 the acts prohibited in this section.

24 I have been trained to administer the test.

25 Signed: _____

26 Print Name: _____

27 Position: _____

28 School: _____

29 School District: _____

30 Date: _____

31 (h) To maintain the security of the ~~California English Language Development Test~~
32 test, all ~~California English Language Development Test~~ district and test site coordinators

1 are responsible for inventory control and shall use appropriate inventory control forms to
2 monitor and track test inventory.

3 (i) The security of the test materials that have been duly delivered to the school
4 district by the test ~~publisher~~ contractor is the sole responsibility of the school district until
5 all test materials have been inventoried, accounted for, and delivered to the common or
6 private carrier designated by the test ~~publisher~~ contractor.

7 (j) Secure transportation within a school district is the responsibility of the school
8 district once materials have been duly delivered to the school district by the test
9 ~~publisher~~ contractor.

10 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 313,
11 Education Code.

12
13 **Article 3. California English Language Development Test**

14 **Variations/Accommodations**

15 **§ 11516. Variations Timing/Scheduling.**

16 All pupils shall have sufficient time to complete the test as provided in the
17 directions for test administration.

18 (a) School district may provide all pupils the following variations:

19 (1) Test directions that are simplified or clarified in English for the Reading and
20 Writing sections.

21 (b) School districts may provide all pupils the following variations if regularly used in
22 the classroom:

23 (1) Special or adaptive furniture;

24 (2) Special lighting or acoustics, visual magnifying, or audio amplification equipment;

25 (3) An individual carrel or study enclosure; and

26 (4) Covered overlay, ~~Markers,~~ masks, ~~manipulative devices~~ or other means to
27 maintain visual attention to the ~~examination or test items~~ consistent with contractor's
28 test directions;

29 (5) test individual in a separate room provided that the pupil is directly supervised by
30 an employee of the school district or nonpublic school who has signed the Test Security
31 Affidavit; and

32 (6) Manually Coded English or American Sign Language to present directions for
33 administration (does not apply to test questions).

1 (c) In addition to the variations listed in Section 11516 (a) and (b), a pupil's IEP
2 Team may determine variations based on the pupil's unique needs pursuant to
3 definition Section 11516.5.

4 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306, 313,
5 and ~~60840(d)~~ 37200, Education Code.

6
7 **§ 11516.5. Pupils with Disabilities Accommodations.**

8 (a) Pupils with disabilities shall be permitted to take the California English Language
9 Development Test with those accommodations listed in subsections (b) through (e), if
10 specified in the for testing that the pupil has regularly used during instruction and
11 classroom assessments as delineated in the pupil's IEP or 504 plan for use on the
12 California English Language Development Test, standardized testing, or for use during
13 classroom instruction and assessments that are appropriate and necessary to address
14 the pupil's identified individual needs.

15 (b) Presentation accommodations:

16 (1) Braille transcriptions provided by the test contractor, or designee.

17 (2) Large print versions reformatted from regular print version;

18 (3) Test items enlarged through electronic means;

19 (4) Audio or oral presentation of questions or items for the writing section;

20 ~~(5) Use of Manually Coded English or American Sign Language to present directions~~
21 ~~for administration; and~~

22 ~~(5)(6) Use of Manually Coded English or American Sign Language to present test~~
23 ~~questions for the writing section;~~

24 (6) Test over more than one day for a test or test part to be administered in a single
25 setting;

26 (7) Supervised breaks within a section of the test; and

27 (8) Administration of the test at the most beneficial time of day to the student.

28 (c) Response accommodations:

29 (1) For grades 3-12, Listening, Reading and Writing sections, student marks
30 responses in test booklet and the responses are transferred to the answer document by
31 a school or school district employee who has signed the Test Security Affidavit;

1 (2) For grades 2-12, Listening, Reading and Writing sections, responses dictated to
2 a scribe for selected response items or multiple-choice items;

3 (3) For kindergarten and grades 1-12, Speaking section, responses dictated to a
4 scribe for selected response items or multiple-choice items;

5 (4) For the Writing section, responses dictated to a scribe, audio recorder or speech
6 to text converter and the pupil indicates all spelling and language conventions; and

7 (5) For the Writing section, use word processing software with the spell and
8 grammar check tools turned off.

9 (d) For the Writing section, use of an assistive device that does not interfere with the
10 independent work of the pupil.

11 (e) Setting accommodations include:

12 (1) Test at home or in hospital, by a test examiner.

13 (f) In addition to the accommodations listed, in Section 11516.5 listed in subsections
14 (b) through (e), a pupil's IEP Team may determine accommodations based on the
15 pupil's unique needs pursuant to definition 11516.5

16 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306(a),
17 313, and ~~60840(d)~~ 37200, Education Code.

18
19 *Add Section 11516.6 to read:*

20 **§ 11516.6. Modifications for Pupils with Disabilities.**

21 (a) Pupils with disabilities shall be permitted to take the test with the following
22 modifications if specified in the pupil's IEP for use on the test, standardized testing, or
23 for use during classroom instruction and assessments.

24 (b) The Following are modifications because they fundamentally alter what the
25 examination measures or affect the comparability scores. Modifications include but are
26 not limited to the following procedures:

27 (1) For the Reading section, questions or items read aloud to the student or audio
28 presentation;

29 (2) For the Listening/Speaking and Reading section, use of Manually Coded English
30 or American Sign Language to present test questions;

1 (3) For the Writing section, essay responses dictated orally, in Manually Coded
2 English, or in American Sign Language to a scribe, audio recorder, or speech to test
3 converter (scribe provides spelling, grammar, and language conventions):

4 (4) Use of a dictionary;

5 (5) For the Writing section, use of word processing software with spell and grammar
6 check tools enabled on the essay responses;

7 (6) For the Writing section, use of an assistive device that interferes with the
8 independent work of the student, including mechanical or electronic devices that are not
9 used solely to record the pupil's responses, including but not limited to transcribers,
10 scribes, voice recognition or voice to text software, and that identify a potential error in
11 the pupil's response or that correct spelling, grammar, or conventions.

12 (c) A pupil who takes the test with one or more modifications shall receive a scored
13 marked "not valid" for the sections of the test on which modifications were used
14 accompanied by the notation that a score marked "not valid" was obtained through use
15 of alternate procedures which may affect the validity of the test.

16 (d) If the pupil's IEP or Section 504 plan proposes a variation for use on the test that
17 has not been listed in Sections 11516, 11516.5, or 11516.6 the school district may
18 submit a request for review or proposed variations in administering the test pursuant to
19 Section 11516.7.

20 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306(a),
21 313, and 37200, Education Code.

22
23 *Renumber Section 11516.6 to 11516.7 to read:*

24 **§ 11516.611516.7. Modifications/Alternate Assessments for Pupils with**
25 **Disabilities.**

26 ~~(a) A pupil's language proficiency cannot be measured by administration of the~~
27 ~~CELDT with modifications. Modifications are not permitted in the administration of the~~
28 ~~test.~~

29 (a)(b) Pupils with disabilities who are unable to participate in the entire CELDT or a
30 section of the test with variations, accommodations or variations modifications shall be
31 administered alternate assessments for English language proficiency as determined by
32 the pupil's IEP team.

1 ~~(b)(c) Pupils who participate in the California English Language Development Test~~
2 ~~Program using alternate assessment procedures shall receive a score marked not valid~~
3 ~~for the sections of the test in which alternate assessments were administered.~~

4 ~~NOTE: Authority cited: Section 33031, Education Code. Reference: 34CFR Section~~
5 ~~300.138 (b) (1)(2).~~

6
7 *Amend Section 11517 to read:*

8 Article 4. Apportionment

9 **§11517. Apportionment Reporting Schedule Apportionment to School Districts.**

10 ~~(a) Each school district shall report to the California Department of Education the~~
11 ~~unduplicated count of the number of pupils to whom the California English Language~~
12 ~~Development Test was administered for annual or initial assessment from November 1,~~
13 ~~2002 through June 30, 2003. Thereafter, each school district shall report the~~
14 ~~unduplicated count of the number of pupils to whom the California English Language~~
15 ~~Development Test was administered for annual or initial assessment during the twelve-~~
16 ~~month period prior to June 30 of each year.~~

17 ~~(b) The superintendent of each school district shall certify the accuracy of all~~
18 ~~information submitted to the California Department of Education.~~

19 ~~(c) The report for the twelve month period prior to June 30 of each year required by~~
20 ~~subdivision (a) shall be postmarked and filed with the State Superintendent of Public~~
21 ~~Instruction within thirty (30) calendar days after June 30 of each year no later than~~
22 ~~October 15. Reports postmarked after October 15 must be accompanied by a waiver~~
23 ~~request as provided by Education Code Section 33050. Reports postmarked after June~~
24 ~~30 of the following fiscal year will not be processed.~~

25 ~~The amount of funding to be apportioned to the school district for the costs of~~
26 ~~administering the test shall be the amount established by the State Board of Education~~
27 ~~to enable school districts to meet the requirements of administering the test to pupils in~~
28 ~~kindergarten to grade 12, inclusive, in the school district. The number of tests~~
29 ~~administered shall be determined by the certification of the school district~~
30 ~~superintendent pursuant to Section 11517.~~

31 ~~NOTE: Authority cited: Section 33031 60810, Education Code. Reference: Sections 313~~
32 ~~and 60810 60851, Education Code.~~

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Add Section 11517.5. to read:

§ 11517.5. Apportionment Information Report.

(a) Annually, each school district shall receive an Apportionment Information Report that shall include the following information for those tests administered during the previous fiscal year (July 1 through June 30):

(1) The number of pupils assessed with the CELDT as indicated by the number of answer documents submitted to and scored by the test contractor for each administration.

(2) The Department shall distribute the Reports to districts no later than November 15 following each testing window.

(b) To be eligible for apportionment payment, school district must meet the following conditions:

(1) The superintendent of each school district has certified the accuracy of the apportionment information report for tests administered during the prior fiscal year (july1 through June 30), which is either:

(A) Postmarked by December 31, or

(B) If postmarked after December 31, the apportionment information report must be accompanied by a waiver request as provided by Education Code Section 33050. For those apportionment information reports postmarked after December 31, apportionment payment is contingent upon the availability of an appropriation for this purpose in the fiscal year in which the tests were administered.

(C) The amount of funding to be apportioned to the school district for the tests shall be calculated by multiplying the amount per administration established by the State Board of Education to enable school districts to meet the requirements of Education Code Section 60851 by the number of pupils in the school district tested with the CELDT during the previous fiscal year as determined by the apportionment information report and as certified by the school district superintendent pursuant to subdivision (B).

NOTE: Authority cited: Section 60810, Education Code. Reference: Section 60851, Education Code.