

Last Minute Memorandum

To: STATE BOARD MEMBERS **Date:** 11/10/03

From: Geno Flores, Deputy Superintendent
Assessment and Accountability Branch

Re: ITEM #10

Subject: STANDARDIZED TESTING AND REPORTING (STAR) PROGRAM—
ADOPTION OF AMENDED TITLE 5 REGULATIONS

Background

At its September 2003 meeting, the State Board approved commencement of the rulemaking process for amending the Title 5 STAR Regulations. The public comment notice was published on September 26, 2003, and a public hearing was held on November 10, 2003.

Report on Public Hearing

Consistent with the requirements of the Administrative Procedure Act, the public hearing regarding the proposed amendments was scheduled for Monday, November 10, at the California Department of Education (CDE), 1430 N Street, Room 1101, Sacramento, California, beginning at 10 a.m. An audiotape of the public hearing was made, and Maryanna Rickner will provide a copy of the audiotape to any State Board member desiring a copy.

The public hearing was called to order at 10 a.m. on the prescribed date and at the prescribed location. One person provided comments at the public hearing. The public hearing was adjourned at 10:33 a.m.

Two comments were received during the public comment period, that ended at 5:00 p.m. on Monday, November 10, 2003. The two comments have been summarized and responses provided to the Board in this memorandum.

Summary of Public Comments/Key Issues

- The term “significant cognitive disability” is not defined.
- Individuals with Disabilities Education Act (IDEA) 97 specifies alternate assessments meaning that there should be more than one option.
- California needs norm-referenced and standards-based tests in Spanish.
- The testing variations for English learners are inadequate.

A summary of the comments and responses by section follows.

Staff Recommendation

Recommend that the State Board adopt the amendments for the regulations with no changes.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF SEPTEMBER 26, 2003 THROUGH NOVEMBER 7, 2003, AND THE PUBLIC HEARING, NOVEMBER 10, 2003.

Comment: Ann Halvorsen, Professor Special Education, California State University, Hayward, via e-mail, commented that “significant cognitive disability” is not defined for California Alternate Performance Assessment (CAPA) and recommended using, “individual with a moderate to severe cognitive disability.” (Section 850(h))

She also commented that Section 852(b) identifies CAPA as the sole alternate assessment, and that IDEA 97 states alternate assessments. Therefore, it seems inappropriate to name only CAPA, if more than one alternate is required.

Response: The proposed regulations comply with the provisions of the federal No Child Left Behind (NCLB) Act that require the state to have an alternate assessment for students with significant cognitive disabilities. The term “significant cognitive disabilities” is taken directly from the federal requirements. The federal NCLB Act requires that the assessments be the same for all students. The CAPA meets the NCLB requirements.

Comment: Susanne Starecki, Law Clerk Ruiz and Sperow, LLP, commented on Section 853.5(d):

- California needs a norm referenced and a standards based achievement test in Spanish to comply with the NCLB.
- The additional testing variations in the proposed regulations are inadequate.
- The proposed regulations fail to provide sufficient means to measure school-based progress.

The testing variations are viewed as inadequate, because that they do not ensure that the performance of English learners will be accurately measured. Providing translated directions (§ 853(d)(3) and glossaries (§ 853(d)(4) do not assist English learners who do not comprehend the content of the tests. Additionally, glossaries are not helpful because the tests are timed.

Response: The federal NCLB Act requires testing all students on the state’s academic content standards not with a norm-referenced test. Limited federal funds are available for developing standards-based tests in Spanish, but at this time there is no authorizing legislation to allow for this.

The proposed testing variation amendments for English learners comply with provisions of the federal NCLB Act and were developed in accordance with a compliance agreement between California and the United States Department of Education. NCLB

requires that the state allow the same testing variations for all English learners statewide. These amendments allow all English learners to use the same testing variations. The California Standards Tests are used to meet the NCLB assessment and accountability requirements. These are untimed tests.

The STAR regulations do not include accountability provisions for schools or districts. These are included in regulations related to NCLB Adequate Yearly Progress and the Academic Performance Index.