



CALIFORNIA STATE BOARD OF EDUCATION

**ITEM
#18**

SEPTEMBER 2003 AGENDA

<u>SUBJECT</u>	X	ACTION
Alternative Schools Accountability Model (ASAM) – Adopt Proposed Title 5 Regulations	X	INFORMATION
		PUBLIC HEARING

Recommendation:

Consider comments received during the public comment period and at the public hearing and take action to adopt the regulations.

Summary of Previous State Board of Education Discussion and Action

In December 2002 and February 2003, the State Board of Education (State Board) approved a total of eight pre-post assessment instruments for use as locally adopted indicators of achievement in the ASAM. The State Board approved emergency regulations to implement the assessment instruments on June 11, 2003 and the Office of Administrative Law approved the regulations on July 21, 2003. The proposed regulations have been posted on the California Department of Education’s Proposed Rulemaking/Regulatory Actions Web site. A public hearing is scheduled for September 9, 2003 following a 45-day public comment period. An audiotape of the hearing will be made available to Board members. A summary and response to comments presented at the public hearing will be submitted as a last minute item.

Summary of Key Issue(s)

Regulations are needed to allow ASAM schools that select a locally adopted assessment of achievement in writing, reading, or mathematics as an accountability indicator to use the approved instruments in the 2003-2004 school year. Emergency regulations are now in place for 120 days. The regulations must be made permanent to complete the rulemaking process.

Fiscal Analysis (as appropriate)

None

Attachment(s)

- Attachment 1: [Title 5. Education, Notice of Proposed Rulemaking, Alternative Schools Accountability Model \(ASAM\) \(Pages 1-4\)](#)
- Attachment 2: [Title 5. Education, Division 1. State Department of Education, Chapter 2. Pupils, Subchapter 4. Statewide Testing of Pupils and Evaluation Proceedings \(Pages 1-5\)](#)
- Attachment 3: [Initial Statement of Reasons, Alternative Schools Accountability Model \(ASAM\) \(Pages 1-2\)](#)
- Attachment 4: [Public Comments on the Proposed Alternative Schools, Accountability Model Pre-Post Assessment Regulations](#)

Additional Information

The State Board of Education (SBE) has scheduled a public hearing on September 9, 2003. Any public comment received at the hearing will be summarized and responded to in a Last Minute Memorandum.

CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street; P.O. Box 944272
Sacramento, CA 95814-5901



TITLE 5. EDUCATION

CALIFORNIA STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Alternative Schools Accountability Model (ASAM)

[Notice published July 25, 2003]

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

The State Board will hold a public hearing beginning at **9:00 a.m. on Tuesday, September 9, 2003**, at 1430 N Street, Room 6303, Sacramento. 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 State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a 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 the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on Monday, September 8, 2003**. The Board will consider only written comments received by the Regulations Adoption Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
E-mail: dstrain@cde.ca.gov
Telephone : (916) 319-0641

AUTHORITY AND REFERENCE

Authority: Section 33031, Education Code.

Reference: Section 52052, Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board proposes to adopt Article 5 and Sections 1068-1074 in Title 5 of the California Code of Regulations (CCR). This article and sections concern requirements for administering, scoring, and

reporting locally adopted pre-post assessments by schools that are registered in the Alternative Schools Accountability Model (ASAM) and have chosen to adopt a pre-post assessment instrument as an indicator of achievement for use in the ASAM.

The proposed regulations are intended to assure that the pre-post assessments are administered, scored, and reported in a consistent, reliable, valid, and fair manner statewide.

Section 1068 specifies that Article 5 applies only to schools that are registered in the Alternative Schools Accountability Model (ASAM) and have chosen to adopt a pre-post assessment instrument as an indicator for use in the ASAM.

Section 1069 defines the meaning of “Pre-post assessment instrument,” “Pre-test,” “Post-test,” “ASAM test site coordinator,” “Test Administrator,” and “Long-term student,” as they are used in Article 5.

Section 1070 requires the ASAM test site coordinator to oversee the administration of all pre-post assessment instruments and to ensure that the instructions provided in the publisher’s assessment administration manual are followed.

Section 1071 states that any certificated employee of a school district trained in the administration of the pre-post assessment instruments, or a trained paraprofessional employee of the school district under the direct supervision of a trained certificated employee, may administer the pre-post assessment instrument.

Section 1072 is designed to ensure the security of the pre-post assessment instruments. It requires ASAM test site coordinators to sign the ASAM Pre-Post Assessment Security Agreement acknowledging that the pre-post assessment instruments are secure, and agreeing to safeguard them in specified ways. This section also requires all persons having access to pre-post assessment instruments to sign the ASAM Pre-Post Assessment Security Affidavit. The affidavit requires signatories to acknowledge that they will have access to the ASAM pre-post assessment instruments, that they understand that the materials are highly secure, and that it is their professional responsibility to protect the security of the assessment instruments in specified ways.

Section 1073 requires the ASAM site coordinator supervise all scoring of pre-post assessment instruments that is done at the school site or district office and to monitor the contract for any scoring activities carried out by an external contractor. This section also specifies that all scoring must be done following the instructions and using the answer keys provided by the test publisher.

Section 1074 requires school districts that have adopted a pre-post assessment instrument to collect specified information for each long-term student enrolled in the school and submit the results to CDE or its designee by July 31 each year for purposes of aggregate analyses only.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

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

Cost 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 State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (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.

Significant effect on housing costs: None.

Affect on small businesses: The regulations and proposed amendments have no affect on small businesses because they relate only to internal school district student testing practices, and do not relate to small business practices, nor to interactions between school districts and small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board 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 substance of the proposed regulations should be directed to:

Sue Bennett
California Department of Education
Education Support Systems Division
660 J Street, Suite 400
Sacramento, CA 95814
E-mail: sbennett@cde.ca.gov
Telephone: (916) 322-5015

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Adoption Coordinator, or to the backup contact person, Najia Rosales, Analyst, at (916) 319-0584.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for

copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/regulations>.

Title 5. EDUCATION

Division 1. State Department of Education

Chapter 2. Pupils

Subchapter 4. Statewide Testing of Pupils and Evaluation Proceedings

Add Article 5 and Sections 1068 – 1074 to read:

Article 5. Alternative Schools Accountability Model Pre-Post Assessments

§ 1068. Application of this Article.

This article shall only apply to schools that are registered in the Alternative Schools Accountability Model (ASAM) and have chosen to adopt a pre-post assessment instrument as an indicator for use in the ASAM.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

§ 1069. Definitions.

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

- (a) “Pre-post assessment instrument” is an assessment instrument available for adoption as an indicator of achievement by schools in the ASAM.
- (b) “Pre-test” is an initial assessment given no later than 20 instructional days following the pupil’s first day of enrollment in the ASAM school.
- (c) “Post-test” is an assessment given after a minimum of 30 days of instruction following the administration of the pre-test.
- (d) “ASAM test site coordinator” means the ASAM school principal or other district employee designated by the district superintendent to oversee the acquisition, and the secure distribution, administration, scoring, and reporting of a pre-post assessment instrument at the school site.
- (e) “Test Administrator” means a certificated employee or paraprofessional employee of a school district trained in the administration of a pre-post assessment instrument by the ASAM test site coordinator.
- (f) “Long-term student” is a student who has been continuously enrolled in the ASAM school for a minimum of 90 consecutive school days during the school year.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code

§ 1070. Administration of Pre-Post Assessment Instrument.

- (a) In order to yield reliable and valid results, each pre-post assessment instrument shall be administered in accordance with directions provided in the publisher’s assessment administration manual.
- (b) The school’s ASAM test site coordinator shall oversee the administration of all pre-post assessment instruments to ensure adherence to the directions provided in the publisher’s assessment administration manual.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

§ 1071. Test Administrator Eligibility.

Any certificated employee of a school district trained in the administration of the pre-post assessment instrument may administer the assessment. Trained paraprofessional employees of the district may administer the pre-post assessment instrument under the direct supervision of a trained certificated employee.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

§ 1072. Security and Storage Requirements.

(a) To ensure security of the pre-post assessment instruments, all ASAM assessment test site coordinators (coordinators) shall sign the ASAM Pre-Post Assessment Security Agreement as set forth in subdivision (b).

(b) The ASAM Pre-Post Assessment Security Agreement shall be as follows:

ASAM PRE-POST ASSESSMENT SECURITY AGREEMENT

The coordinator acknowledges by his or her signature on this form that the ASAM pre-post assessment instruments are secure assessments and agrees to each of the following conditions to ensure test security:

(1) The coordinator will take all necessary precautions to safeguard all pre-post assessment instruments and assessment materials by limiting access to persons within the school district with a responsible, professional interest in the assessment instruments' security.

(2) The coordinator will keep on file the names of persons having access to pre-post assessment instruments and assessment materials. All persons having access to the materials shall be required by the coordinator to sign the ASAM Pre-Post Assessment Security Affidavit that will be kept on file in the school and school district office.

(3) The coordinator will keep the pre-post assessment instruments and assessment materials in a secure, locked location at the school site, limiting access to only those persons responsible for assessment security, except on actual administration dates.

(4) The coordinator will be responsible for ensuring the security of all scoring activities whether done at the school site, the district office, or by an external contractor.

By signing my name to this document, I am assuring that I and anyone having access to the pre-post assessment instruments will sign a security affidavit.

By: _____

Title: _____

School: _____

School District: _____

Date: _____

(c) All persons having access to the ASAM pre-post assessment instruments, including but not limited to the coordinator and test administrators, shall acknowledge the limited purpose of their access to the assessment instruments by signing the ASAM Pre-Post Assessment Security Affidavit set forth in subdivision (d).

(d) The ASAM Pre-Post Test Security Affidavit shall be as follows:

ASAM PRE-POST ASSESSMENT SECURITY AFFIDAVIT

I acknowledge that I will have access to the ASAM pre-post assessment instruments for the purpose of administering or scoring the assessments. I understand that these materials are highly secure, and it is my professional responsibility to protect their security as follows:

(1) I will not divulge the contents of the pre-post assessment instruments to any other person.

(2) I will not copy any part of the pre-post assessment instruments or assessment materials.

(3) I will keep the pre-post assessment instruments secure until the assessments are actually distributed to pupils or, in the case of computer-administered assessments, the pupils actually log on to begin the assessments.

(4) I will limit pupils' access to the pre-post assessment instruments and assessment materials to the actual

testing periods.

(5) I will not permit pupils to remove pre-post assessment instruments and assessment materials from the room where testing takes place.

(6) I will not disclose, or allow to be disclosed, the contents of, or the scoring keys to, the pre-post assessment instruments.

(7) I will return all pre-post assessment instruments and assessment materials to the designated coordinator upon completion of the assessment administration.

(8) I will not interfere with the independent work of any pupil taking a pre-post assessment and I will not compromise the security of the assessment instrument by means including, but not limited to:

(A) Providing pupils with access to pre-post assessment questions prior to administration of the assessment instrument.

(B) Copying, reproducing, transmitting, distributing or using in any manner inconsistent with test security all or any portion of any secure pre-post assessment instrument.

(C) Coaching pupils during administration of the assessment instrument or altering or interfering with the pupils' responses in any way.

(D) Making answer keys available to pupils.

(E) Failing to follow security rules for distribution and return of secure pre-post assessment instruments as directed, or failing to account for all secure pre-post assessment instruments and assessment materials before, during, and after their administration.

(F) Failing to follow administration directions specified in the publisher's assessment administration manual.

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

Signed: _____

Print Name: _____

Position: _____

School: _____

School District: _____

Date: _____

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

§ 1073. Scoring.

All pre-post assessment instruments scored at the school site or district office shall be scored under the supervision of the coordinator. The coordinator will monitor the contract for any scoring activities carried out by an external contractor. All scoring shall be done following the instructions and using the answer keys provided by the publisher of the specific pre-post assessment instrument.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

§ 1074. Reporting.

School districts that have adopted a pre-post assessment instrument as an indicator of achievement for an ASAM school shall submit the following information for each long-term student enrolled in the school. The information shall be submitted in a format provided by the California Department of Education.

- (a) Local student Identification number (as available).
- (b) Test name and form.
- (c) Dates pre-post assessment instruments were administered.
- (d) Scores on each assessment instrument.
- (e) Student demographics:
 - (1) Date of birth.
 - (2) Grade level.
 - (3) Gender.
 - (4) Language fluency and home language.
 - (5) Special program participation.
 - (6) Testing adaptations or accommodations.
 - (7) Amount of time in school district and in California public schools.
 - (8) Ethnicity.
 - (9) Parent education level.
 - (10) Handicapping condition or disability.

This information is for the purpose of aggregate analyses only.

Districts shall submit the ASAM pre-post assessment instrument results to CDE or its designee by July 31 each year.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

Initial Statement of Reasons Alternative Schools Accountability Model (ASAM)

Sections 1068, 1069, 1070, 1071, 1072, 1073, and 1074.

SPECIFIC PURPOSE OF THE REGULATION.

The proposed regulations will establish the requirements for administering, scoring, and reporting locally adopted pre-post assessments for use as indicators of achievement by schools registered in the Alternative Schools Accountability Model (ASAM).

NECESSITY/RATIONALE

The Public Schools Accountability Act (PSAA) of 1999, SB 1X, Chapter 3, Statutes of 1999 [Article 2, Section 52052 (g)] requires that all schools be held accountable through the state's accountability system. The Superintendent of Public Instruction, with the approval of the State Board of Education (State Board), developed the ASAM to provide accountability for alternative schools defined in law including continuation schools, community day schools, county juvenile court schools, county community schools, California Youth Authority schools, and opportunity schools; as well as for other alternative schools serving high-risk students.

More than 1,100 alternative schools currently participate in the ASAM. These schools enroll high-risk students at the elementary, middle, and high school levels who typically function far below grade-level standards and show extremely high levels of mobility, moving in and out of programs and schools on a routine basis. The ASAM employs multiple indicators to evaluate school performance. The indicator data are based on students enrolled for 90 days, the minimum period required for consistent delivery of instruction, in order to reflect the students' progress during the time they are enrolled in the school. Pre-post assessment instruments are extremely valuable indicators of academic growth for these students because they can be sensitive to gains during the students' typically short enrollment periods.

The State Board has approved assessment instruments for use as locally adopted indicators of achievement in the ASAM and has required that regulations be adopted to assure that the pre-post assessments are administered, scored, and reported in a consistent, reliable, valid, and fair manner statewide.

Section 1068

This section specifies that Article 5 applies only to schools that are registered in the Alternative Schools Accountability Model (ASAM) and have chosen to adopt a pre-post assessment instrument as an indicator for use in the ASAM.

Section 1069

This section defines the meaning of "Pre-post assessment instrument," "Pre-test," "Post-test," "ASAM test site coordinator," "Test Administrator," and "Long-term student," as they are used in Article 5.

Section 1070

This section requires the ASAM test site coordinator to oversee the administration of all pre-post assessment instruments and to ensure that the instructions provided in the publisher's assessment administration manual are followed.

Section 1071

This section states that any certificated employee of a school district trained in the administration of the pre-post assessment instruments, or a trained paraprofessional employee of the school district under the direct supervision of a trained certificated employee, may administer the pre-post assessment instrument.

Section 1072

This section is designed to ensure the security of the pre-post assessment instruments. It requires ASAM test site coordinators to sign the ASAM Pre-Post Assessment Security Agreement acknowledging that the pre-post assessment instruments are secure, and agreeing to safeguard them in specified ways. This section also requires all persons having access to pre-post assessment instruments to sign the ASAM Pre-Post Assessment Security Affidavit. The affidavit requires signatories to acknowledge that they will have access to the ASAM pre-post assessment instruments, that they understand that the materials are highly secure, and that it is their professional responsibility to protect the security of the assessment instruments in specified ways.

Section 1073

This section requires the ASAM site coordinator to supervise all scoring of pre-post assessment instruments that is done at the school site or district office and to monitor the contract for any scoring activities carried out by an external contractor. This section also specifies that all scoring must be done following the instructions and using the answer keys provided by the test publisher.

Section 1074

This section requires school districts that have adopted a pre-post assessment instrument to collect specified information for each long-term student enrolled in the school and submit the results to CDE or its designee by July 31 each year for purposes of aggregate analyses only.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The State Board did not rely upon any other technical, theoretical, or empirical studies, reports or documents in proposing the amendment of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the State Board.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The State Board has not identified any alternatives that would lessen any adverse impact on small business.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

The proposed regulations would not have a significant adverse economic impact on any business because they relate only to internal school district student testing practices, and do not relate to small business practices, nor to interactions between school districts and small businesses.

Public Comments on the Proposed Alternative Schools, Accountability Model Pre-Post Assessment Regulations

Two written comments have been received as of August 20, 2003.

Section 1071. Test Administrator Eligibility

Comment 1:

The writer expresses concern that the proposed regulations require paraprofessionals administering a pre-post assessment instrument to be employees of the district. He notes that charter school regulations permit paraprofessionals to be employees of the nonprofit agency providing the office administration support.

Response:

The proposed regulations do not make special provisions for charter schools.

Comment 2:

The writer requests clarification of the requirement that a paraprofessional administering a pre-post test must do so “under the direct supervision” of a certificated employee. He asks whether the certificated employee must be physically present while the assessment process takes place or whether the certificated employee may take responsibility for the administration at a time when he or she is teaching in an adjoining room.

Response 2:

The proposed regulations do not currently define “direct supervision.”

Section 1073. Scoring

Comment:

The writer takes the position that collecting and reporting test and demographic data for aggregate analysis will not serve a purpose which can justify the expense and effort required to gather the information. He notes that schools in the Alternative Schools Accountability Model (ASAM) will use several different pre-post tests and that demographic data are also gathered under the Standardized Testing and Reporting (STAR) program.

Response:

(Note that the writer’s comment applies to Section 1074. Reporting, rather than Section 1073. Scoring.)

The pre-post assessment measures of achievement have been added to the indicators available to schools participating in the ASAM to provide measures that are sensitive to changes in performance in the highly mobile populations they serve. Districts and county offices of education may adopt a pre-post assessment measure as an indicator of achievement for schools in the ASAM if they choose to do so. Student data must be aggregated for each test to document performance at the school level. The proposed regulations would require schools that choose to administer a pre-post test to collect and report the standard elements of demographic data that are collected for other state tests.