

**State of California  
Office of Administrative Law**

**In re:**  
**Board of Education**

**Regulatory Action:**

**Title 5, California Code of Regulations**

**Adopt sections: 4800, 4801, 4802, 4803,  
4804, 4805, 4806, 4807**

**Amend sections:**

**Repeal sections:**

**NOTICE OF APPROVAL OF EMERGENCY  
REGULATORY ACTION**

**Government Code Sections 11346.1 and  
11349.6**

**OAL File No. 2011-0309-01 EE**

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This rulemaking action readopts, for a period of 90 days, emergency regulations which implement Senate Bill 4, Chapter 3, 5th Extraordinary Session, of 2010. The Senate Bill and these emergency regulations establish the parent empowerment process whereby parents of students who are or will be enrolled in 75 schools (which are not identified as persistently low achieving but which: are subject to federal corrective action, continue to fail to make adequate yearly progress, and have Academic Performance Index scores of less than 800) the right to petition for implementation of one of four specified school reform interventions. The regulations also, among other things, specify the requirements for these petitions and the petition process.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 3/15/2011 and will expire on 6/14/2011. The Certificate of Compliance for this action is due no later than 6/13/2011.

Date: 3/15/2011

  
Dale P. Mentink  
Senior Staff Counsel

For: DEBRA M. CORNEZ  
Assistant Chief Counsel/Acting Director

Original: Nicolas Schweizer  
Copy: Cynthia Olsen

NOTICE PUBLICATION REGULATIONS SUBMISSION

# EMERGENCY

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z- 2010-0921-08</b>	REGULATORY ACTION NUMBER	EMERGENCY NUMBER <b>2011-0309-01EE</b>
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ENDORSED FILED  
IN THE OFFICE OF

2011 MAR 15 PM 2:07

For use by Office of Administrative Law (OAL) only

2011 MAR -9 PM 2:13

OFFICE OF  
ADMINISTRATIVE LAW

NOTICE	REGULATIONS
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*Jenna Bowen*  
JENNA BOWEN  
SECRETARY OF STATE

AGENCY WITH RULEMAKING AUTHORITY State Board of Education	AGENCY FILE NUMBER (if any)
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### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn			NOTICE REGISTER NUMBER	PUBLICATION DATE

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Parent Empowerment	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2010-0903-04ER
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
<b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>	ADOPT 4800, 4801, 4802, 4803, 4804, 4805, 4806, 4807
	AMEND
TITLE(S) 5	REPEAL

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			

7. CONTACT PERSON Cynthia Olsen, Regulations Analyst	TELEPHONE NUMBER (916) 319-0584	FAX NUMBER (Optional) (916) 319-0155	E-MAIL ADDRESS (Optional) colsen@cde.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Amy Bisson Holloway</i>	DATE March 9, 2011
TYPED NAME AND TITLE OF SIGNATORY Amy Bisson Holloway, General Counsel	

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ENDORSED APPROVED

MAR 15 2011

Office of Administrative Law

- 1 • The State Board of Education has illustrated changes to the original text in the  
2 following manner: text originally proposed to be added is underlined.  
3

4 **Title 5. EDUCATION**

5 **Division 1. California Department of Education**

6 **Chapter 5.2.5 Parent Empowerment**

7 **Subchapter 1. Parent Empowerment**

8 **Article 1. General Provisions**

9  
10 **§ 4800. Definitions.**

11 (a) "Elementary school" means a school, regardless of the number of grade levels,  
12 whose graduates matriculate into a subject middle or high school.

13 (b) "High school" means four-year high schools, junior high schools, senior high  
14 schools, continuation high schools, and evening schools.

15 (c) "Middle school" means a school, regardless of the number of grade levels, whose  
16 graduates matriculate into a subject high school. Middle school also means a junior high  
17 school whose graduates matriculate into a subject senior high school.

18 (d) "Intervention" or "requested intervention" means:

19 (1) one of the four interventions (turnaround model, restart model, school closure,  
20 and transformation model) identified pursuant to paragraphs (1) to (4), inclusive, of  
21 subdivision (a) of Education Code section 53202 and as further described in Appendix  
22 C of the Notice of Final Priorities, Requirements, Definitions, Section Criteria for the  
23 Race to the Top program published in Volume 74 of Number 221 of the Federal  
24 Register on November 18, 2009; or

25 (2) the alternative governance arrangement pursuant to Title 20 U.S.C. Section  
26 6316(b)(8)(B)(v).

27 (e) "Parents or legal guardians of pupils" means the natural or adoptive parents,  
28 legal guardians, or other persons holding the right to make educational decisions for the  
29 pupil pursuant to Welfare and Institutions Code section 361 or 727 or Education Code  
30 section 56055, including foster parents.

31 (f) "Petition" means a petition requesting a local educational agency (LEA) to  
32 implement one of the interventions defined in subdivision (d).

1 (g) "Pupils attending the subject school or elementary or middle schools that  
2 normally matriculate into a subject middle or high school" means pupils attending the  
3 school on the date the petition is submitted to the LEA.

4 (h) "Subject school" means a school not identified as a persistently lowest-achieving  
5 school under Education Code section 53201 which, after one full school year, is subject  
6 to corrective action pursuant to 20 U.S.C. Section 6316(b)(7) and continues to fail to  
7 make adequate yearly progress, and has an Academic Performance Index (API) score  
8 of less than 800.

9 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53, 53202  
10 and 53300, Education Code; and 20 U.S.C. Section 6316.

11

12 **§ 4801. Petition Signatures.**

13 (a) A petition may only contain signatures of parents or legal guardians of pupils  
14 attending the subject school or a combination of signatures of parents or legal  
15 guardians of pupils attending the subject school and the elementary or middle schools  
16 that normally matriculate into a subject middle or high school. A petition may not consist  
17 solely of signatures of parents or legal guardians of pupils attending only the elementary  
18 or middle schools that normally matriculate into a subject middle or high school.

19 (b) A petition may be signed by a parent or legal guardian once for each of his or her  
20 pupils attending the subject school or, if the petition contains a combination of  
21 signatures of parents or legal guardians of pupils attending the subject school and the  
22 elementary or middle schools that normally matriculate into a subject middle or high  
23 school, it may be signed by a parent or legal guardian once for each of his or her pupils  
24 attending the subject school or the elementary or middle schools that normally  
25 matriculate into the subject middle or high school.

26 (c) Only one parent or legal guardian may sign a petition.

27 (d) The petition must have boxes with room for the signature of each petition signer  
28 as well as his or her printed name, address, city or unincorporated community name  
29 and zip code, date, pupil's name, the name of the school the pupil is currently attending,  
30 and the pupil's current grade.

31 (1) The petition shall state that the disclosure of the address, city or unincorporated

1 community name and zip code is voluntary, and cannot be made a condition of signing  
2 the petition.

3 (e) The petition boxes referenced in subdivision (d) must be consecutively numbered  
4 commencing with the number 1 for each petition section.

5 (f) Because a petition may be signed by a parent or a legal guardian once for each  
6 of his or her pupils attending the subject school or, if the petition contains a combination  
7 of signatures of parents or legal guardians of pupils attending the subject school and the  
8 elementary or middle schools that normally matriculate into a subject middle or high  
9 school, once for each of his or her pupils attending the subject school and the  
10 elementary or middle schools that normally matriculate into the subject middle or high  
11 school, separate petition boxes must be completed by the parent or legal guardian for  
12 each of his or her pupils.

13 (g) A petition may be circulated and presented in sections, so long as each section  
14 complies with the requirements of this section and section 4802 regarding the content of  
15 the petition.

16 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 53300,  
17 Education Code.

18

19 **§ 4802. Content of the Petition.**

20 The petition or each section of the petition shall contain the following elements:

21 (a) A heading which states that it is a Petition of Parents, Legal Guardians, and  
22 Persons Holding the Right to Make Educational Decisions for Pupils, Including Foster  
23 Parents to Implement an Intervention at the specified subject school and to be  
24 submitted to a specified LEA;

25 (b) The name and public contact information of the person to be contacted by either  
26 persons interested in the petition or by the LEA;

27 (c) Identification of the requested intervention;

28 (d) A description of the requested intervention using the language set forth in either  
29 sections 4803, 4804, 4805, 4806, or 4807;

30 (e) The name of the subject school;

31 (f) Boxes as designated in section 4801(d);

1 (g) An affirmation that the signing parent or legal guardian is requesting the LEA to  
2 implement the identified intervention at the subject school; and

3 (h) A request to an LEA to implement the restart model intervention identified  
4 pursuant to paragraph (2) of subdivision (a) of Education Code section 53202 may also  
5 request that the subject school be reopened under a specific charter school operator,  
6 charter management organization or education management organization that has been  
7 selected by a rigorous review process.

8 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and  
9 53300, Education Code.

10  
11 **§ 4803. Description of Intervention – Turnaround Model.**

12 (a) A turnaround model is one in which a local educational agency (LEA) must:

13 (1) Replace the principal and grant the principal sufficient operational flexibility  
14 (including in staffing, calendars/time, and budgeting) to implement fully a  
15 comprehensive approach in order to substantially improve student achievement  
16 outcomes and increase high school graduation rates;

17 (2) Using locally adopted competencies to measure the effectiveness of staff who  
18 can work within the turnaround environment to meet the needs of students;

19 (A) Screen all existing staff and rehire no more than 50 percent; and

20 (B) Select new staff;

21 (3) Implement such strategies as financial incentives, increased opportunities for  
22 promotion and career growth, and more flexible work conditions that are designed to  
23 recruit, place, and retain staff with the skills necessary to meet the needs of the  
24 students in the turnaround school;

25 (4) Provide staff with ongoing, high-quality, job-embedded professional development  
26 that is aligned with the school's comprehensive instructional program and designed with  
27 school staff to ensure that they are equipped to facilitate effective teaching and learning  
28 and have the capacity to successfully implement school reform strategies;

29 (5) Adopt a new governance structure, which may include, but is not limited to,  
30 requiring the school to report to a new “turnaround office” in the LEA, hire a “turnaround  
31 leader” who reports directly to the Superintendent or Chief Academic Officer, or enter

1 into a multi-year contract with the LEA or State Educational Agency (SEA) to obtain  
2 added flexibility in exchange for greater accountability;

3 (6) Use data to identify and implement an instructional program that is research-  
4 based and “vertically aligned” from one grade to the next as well as aligned with State  
5 academic standards;

6 (7) Promote the continuous use of student data (such as from formative, interim, and  
7 summative assessments) to inform and differentiate instruction in order to meet the  
8 academic needs of individual students;

9 (8) Establish schedules and implement strategies that provide increased learning  
10 time (as defined in the United States Department of Education notice published in the  
11 Federal Register at 74 Federal Register 59805 (Nov.18, 2009); and

12 (9) Provide appropriate social-emotional and community-oriented services and  
13 supports for students.

14 (b) A turnaround model may also implement other strategies such as:

15 (1) Any of the required and permissible activities under the transformation model; or

16 (2) A new school model (e.g., themed, dual language academy).

17 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and  
18 53300, Education Code and 20 U.S.C. Section 6301.

19  
20 **§ 4804. Description of Intervention – Restart Model.**

21 A restart model is one in which a local educational agency (LEA) converts a school  
22 or closes and reopens a school under a charter school operator, a charter management  
23 organization (CMO), or an education management organization (EMO) that has been  
24 selected through a rigorous review process. (A CMO is a non-profit organization that  
25 operates or manages charter schools by centralizing or sharing certain functions and  
26 resources among schools. An EMO is a for-profit or non-profit organization that provides  
27 “whole-school operation” services to an LEA.) A restart model must enroll, within the  
28 grades it serves, any former student who wishes to attend the school.

29 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and  
30 53300, Education Code; and 20 U.S.C. Section 6301.

1 **§ 4805. Description of Intervention – School Closure.**

2 School closure occurs when a local educational agency (LEA) closes a school and  
3 enrolls the students who attended that school in other schools in the LEA that are higher  
4 achieving. These other schools should be within reasonable proximity to the closed  
5 school and may include, but are not limited to, charter schools or new schools for which  
6 achievement data is not yet available.

7 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and  
8 53300, Education Code and 20 U.S.C. Section 6301.

9

10 **§ 4806. Description of Intervention – Transformation Model.**

11 A transformation model is one in which a local educational agency (LEA) implements  
12 each of the following strategies:

13 (a) Developing and increasing teacher and school leader effectiveness.

14 (1) Required activities. The LEA must:

15 (A) Replace the principal who led the school prior to commencement of the  
16 transformation model;

17 (B) Use rigorous, transparent, and equitable evaluation systems for teachers and  
18 principals that:

19 1. Take into account data on student growth (as defined in the United States  
20 Department of Education notice published in the Federal Register at 74 Federal  
21 Register 59806 (Nov. 18, 2009)) as a significant factor as well as other factors such as  
22 multiple observation-based assessments of performance and ongoing collections of  
23 professional practice reflective of student achievement and increased high-school  
24 graduations rates; and

25 2. Are designed and developed with teacher and principal involvement.

26 (C) Identify and reward school leaders, teachers, and other staff who, in  
27 implementing this model, have increased student achievement and high school  
28 graduation rates and identify and remove those who, after ample opportunities have  
29 been provided for them to improve their professional practice, have not done so;

30 (D) Provide staff with ongoing, high-quality, job-embedded professional development  
31 (e.g., regarding subject-specific pedagogy, instruction that reflects a deeper

1 understanding of the community served by the school, or differentiated instruction) that  
2 is aligned with the school's comprehensive instructional program and designed with  
3 school staff to ensure they are equipped to facilitate effective teaching and learning and  
4 have the capacity to successfully implement school reform strategies; and

5 (E) Implement such strategies as financial incentives, increased opportunities for  
6 promotion and career growth, and more flexible work conditions that are designed to  
7 recruit, place, and retain staff with the skills necessary to meet the needs of the  
8 students in a transformation school.

9 (2) Permissible activities. An LEA may also implement other strategies to develop  
10 teachers' and school leaders' effectiveness, such as:

11 (A) Providing additional compensation to attract and retain staff with the skills  
12 necessary to meet the needs of the students in a transformation school;

13 (B) Instituting a system for measuring changes in instructional practices resulting  
14 from professional development; or

15 (C) Ensuring that the school is not required to accept a teacher without the mutual  
16 consent of the teacher and principal, regardless of the teacher's seniority.

17 (b) Comprehensive instructional reform strategies.

18 (1) Required activities. The LEA must:

19 (A) Use data to identify and implement an instructional program that is research-  
20 based and "vertically aligned" from one grade to the next as well as aligned with State  
21 academic standards; and

22 (B) Promote the continuous use of student data (such as from formative, interim, and  
23 summative assessments) to inform and differentiate instruction in order to meet the  
24 academic needs of individual students.

25 (2) Permissible activities. An LEA may also implement comprehensive instructional  
26 reform strategies, such as:

27 (A) Conducting periodic reviews to ensure that the curriculum is being implemented  
28 with fidelity, is having the intended impact on student achievement, and is modified if  
29 ineffective;

30 (B) Implementing a school wide "response-to-intervention" model;

31 (C) Providing additional supports and professional development to teachers and

1 principals in order to implement effective strategies to support students with disabilities  
2 in the least restrictive environment and to ensure that limited-English-proficient students  
3 acquire language skills to master academic content;

4 (D) Using and integrating technology-based supports and interventions as part of the  
5 instructional program; and

6 (E) In secondary schools:

7 1. Increasing rigor by offering opportunities for students to enroll in advanced  
8 coursework (such as Advanced Placement or International Baccalaureate; or science,  
9 technology, engineering, and mathematics courses, especially those that incorporate  
10 rigorous and relevant project-, inquiry-, or design-based contextual learning  
11 opportunities), early-college high schools, dual enrollment programs, or thematic  
12 learning academies that prepare students for college and careers, including by  
13 providing appropriate supports designed to ensure that low-achieving students can take  
14 advantage of these programs and coursework;

15 2. Improving student transition from middle to high school through summer transition  
16 programs or freshman academies;

17 3. Increasing graduation rates through, for example, credit-recovery programs, re-  
18 engagement strategies, smaller learning communities, competency-based instruction  
19 and performance-based assessments, and acceleration of basic reading and  
20 mathematics skills; or

21 4. Establishing early-warning systems to identify students who may be at risk of  
22 failing to achieve to high standards or graduate.

23 (c) Increasing learning time and creating community-oriented schools.

24 (1) Required activities. The LEA must:

25 (A) Establish schedules and implement strategies that provide increased learning  
26 time (as defined in 74 Federal Register 59805 (Nov. 18, 2009)); and

27 (B) Provide ongoing mechanisms for family and community engagement.

28 (2) Permissible activities. An LEA may also implement other strategies that extend  
29 learning time and create community-oriented schools, such as:

30 (A) Partnering with parents and parent organizations, faith- and community-based  
31 organizations, health clinics, other State or local agencies, and others to create safe

1 school environments that meet students' social, emotional, and health needs;

2 (B) Extending or restructuring the school day so as to add time for such strategies as  
3 advisory periods that build relationships between students, faculty, and other school  
4 staff;

5 (C) Implementing approaches to improve school climate and discipline, such as  
6 implementing a system of positive behavioral supports or taking steps to eliminate  
7 bullying and student harassment; or

8 (D) Expanding the school program to offer full-day kindergarten or pre-kindergarten.

9 (d) Providing operational flexibility and sustained support.

10 (1) Required activities. The LEA must:

11 (A) Give the school sufficient operational flexibility (such as staffing, calendars/time,  
12 and budgeting) to implement fully a comprehensive approach to substantially improve  
13 student achievement outcomes and increase high school graduation rates; and

14 (B) Ensure that the school receives ongoing, intensive technical assistance and  
15 related support from the LEA, the State Educational Agency (SEA), or a designated  
16 external lead partner organization (such as a school turnaround organization or an  
17 EMO).

18 (2) Permissible activities. The LEA may also implement other strategies for providing  
19 operational flexibility and intensive support, such as:

20 (A) Allowing the school to be run under a new governance arrangement, such as a  
21 turnaround division within the LEA or SEA; or

22 (B) Implementing a per-pupil school-based budget formula that is weighted based on  
23 student needs.

24 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and  
25 53300, Education Code and 20 U.S.C. Section 6301.

26  
27 **§ 4807. Description of Intervention – Alternative Governance Arrangement.**

28 Alternative governance is one in which an LEA institutes any other major  
29 restructuring of the school's governance arrangement that makes fundamental reforms,  
30 such as significant changes in the school's staffing and governance, to improve student  
31 academic achievement in the school and that has substantial promise of enabling the

1 school to make adequate yearly progress as defined in the State plan under Section  
2 6311(b)(2) of the federal Elementary and Secondary Education Act. In the case of a  
3 rural LEA with a total of less than 600 students in average daily attendance at the  
4 schools that are served by the agency and all of whose schools have a School Locale  
5 Code of 7 or 8, as determined by the Secretary, the Secretary shall, at such agency's  
6 request, provide technical assistance to such agency for the purpose of implementing  
7 this clause.

8 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 53300,  
9 Education Code; and 20 U.S.C. Sections 6311 and 6316.

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