

CLIENT NEWS BRIEF

State Board of Education Proposes Amendments to Special Education Regulations

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The California State Board of Education recently issued a notice of its intent to propose changes to the California Code of Regulations pertaining to special education. (See the [notice, proposed regulations, and initial statement of reasons on the CDE website](#).) The proposed changes relate to the administration of special education instruction and related services for students with individualized education programs (IEPs).

The proposed amendments would update and conform state regulations to current state and federal laws. The State Board of Education notes that updating these regulations will “help bring consistency in the provision of special education and related services to children with disabilities and reduce confusion about the intent of the law among educators and service providers,” which may mitigate “the potential for costly due process hearings and civil suits resulting from inadvertent failures to adhere to current code.”

Perhaps the most notable revisions include updating eligibility criteria to be consistent with current law and replacing outdated specific qualification requirements for service providers. The proposed changes would update the regulations regarding eligibility requirements for students with special needs to align the section with current federal and state law. The amendments also propose replacing outdated licensing and credentialing requirements with the requirement that, “Individuals providing (specific) service(s) shall be qualified.” This proposed language acknowledges that educational agencies are responsible for establishing minimum service provider qualifications consistent with professional requirements.

The proposed amendments also include:

- General changes for clarity and consistency, such as replacing “Department” with “CDE” throughout the regulations;
- Removing duplicative and redundant definitions as well as content defined or included elsewhere. For example, they propose deleting the definition of “State Board of Education” because it is already defined in Education Code section 56021;
- Removing regulations that no longer have statutory authority, such as removing the section on “special centers,” which was repealed in 1998 and removed from reference in the continuum of options in 2002;
- Updating regulations to conform with current state and federal laws. For example, they propose aligning eligibility criteria for children aged birth to younger than three years served by Early Start and through the Individuals with Disabilities Education Act (IDEA);
- Replacing terms to reflect current usage, including replacing the term “handicapping/handicapped” with “disabling/disabled” or “impaired” as used in federal law;



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- Removing language that is outdated, such as references to deadlines in the past, names of services or agencies no longer used or in existence like the Special Education Hearing Office; and
- Amending authorities and references to ensure the regulations cross-reference the correct state and federal statutes and regulations.

Stakeholders are encouraged to provide input regarding the proposed changes to the regulations during the public comment period, which closes on July 8, 2013. Further guidance will be issued by our office after any substantive changes to the regulations are formally adopted.

If you have any questions about the SBE's proposed amendment to Title 5, please feel free to contact one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).