

**State of California  
Office of Administrative Law**

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

**Regulatory Action:**

**Title 5, California Code of Regulations**

**Adopt sections:** 15498, 15498.1, 15498.2,  
15498.3

**Amend sections:**

**Repeal sections:**

**NOTICE OF APPROVAL OF EMERGENCY  
REGULATORY ACTION**

**Government Code Sections 11346.1 and  
11349.6**

**OAL File No. 2014-0319-03 E**

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This emergency rulemaking action implements a portion of the Local Control Funding Formula under Assembly Bill 97, Chapter 47 of 2013. The adopted regulations add provisions which define necessary terms and establish the methodology for calculating class size averages for purposes of school districts qualifying to receive a grade span adjustment for maintaining or making progress toward achieving an average class size enrollment of no more than 24 pupils in these grades.

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 4/1/2014 and will expire on 9/30/2014. The Certificate of Compliance for this action is due no later than 9/29/2014.

**Date:** 4/1/2014



**Dale P. Mentink  
Senior Staff Counsel**

**For:** DEBRA M. CORNEZ  
Director

**Original:** Susan Burr  
**Copy:** Debra Thacker

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-		2014-0319-03E

ENDORSED FILED IN THE OFFICE OF

2014 APR -1 PM 2:26

Debra Bowen  
DEBRA BOWEN  
SECRETARY OF STATE

For use by Office of Administrative Law (OAL) only

2014 MAR 19 PM 3:24  
OFFICE OF ADMINISTRATIVE LAW

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY  
State Board of Education

AGENCY FILE NUMBER (if any)

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 <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Local Control Funding Formula Kindergarten - 3 Grade Span Adjustment	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)		
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 15498, 15498.1, 15498.2, 15498.3		
	AMEND		
TITLE(S) 5	REPEAL		
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code § 11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§ 11349.3, 11349.4) <input checked="" type="checkbox"/> Emergency (Gov. Code, § 11346.1(b)) <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 type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, § 11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) <input type="checkbox"/> Print Only			
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 January 1, April 1, July 1, or October 1 (Gov. Code § 11343.4(a)) <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 checked="" 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 Debra Thacker, Regulations Coordinator	TELEPHONE NUMBER (916) 319-0642	FAX NUMBER (Optional) (916) 319-0155	E-MAIL ADDRESS (Optional) dthacker@cde.ca.gov

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>A.B.H. Holloway</i>	DATE 3/13/14
TYPED NAME AND TITLE OF SIGNATORY Amy Bisson Holloway, General Counsel	

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ENDORSED APPROVED

APR 01 2014

Office of Administrative Law

1 Title 5. EDUCATION

2 Division 1. California Department of Education

3 Chapter 14.6. Local Control Funding Formula Kindergarten and Grades One

4 Through Three Grade Span Adjustment

5 Article 1. Apportionments and Allowances

6 § 15498. Purpose.

7 The Superintendent of Public Instruction (SSPI) deems this chapter necessary for  
8 the effective administration of the kindergarten and grades one through three grade  
9 span adjustment as specified in Education Code section 42238.02(d)(3), and for the  
10 determinations thereby required of the SSPI in computing apportionments and  
11 allowances from the State School Fund.

12 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 42238.02,  
13 Education Code.

14  
15 § 15498.1. Definitions.

16 For the purposes of administering the provisions of this chapter and the provisions  
17 of Education Code section 42238.02(d)(3), the following definitions apply:

18 (a) "Class" means a group of pupils scheduled to report regularly at a particular time  
19 to a particular teacher during the regular school day as defined by the school district  
20 governing board, excluding special day classes. Classes in the evening and summer  
21 schools are not classes for purposes of this section.

22 (b) Where the type of teaching in kindergarten and grades 1, 2, and 3 is other than  
23 in self-contained classes, the "class" is the basic homeroom where all of the following  
24 applies for a pupil:

25 (1) Attendance is recorded and investigation of absences is instigated.

26 (2) The pupil has his or her desk, locker, or drawer.

27 (3) The teacher handles the administrative routines such as keeping cumulative  
28 records, collecting basic data about the pupil, distributing items to go home, collecting  
29 meal money, and distributing and collecting report cards.

30 (4) The teacher is the usual contact with the pupil's parents.

31 (5) Some planned instruction is given.

32 (c) "Kindergarten" includes transitional kindergarten as defined by Education Code

1 section 48000.

2 (d) "Active enrollment count" for purposes of subdivision (e) means the count of  
3 pupils enrolled in the class on the first day of the school year on which the class was in  
4 session, plus all later enrollees, minus all withdrawals since that first day. A pupil who is  
5 enrolled in independent study pursuant to Article 5.5 of Chapter 5 of Part 28 of the  
6 Education Code for the full regular school day shall not be included. An active  
7 enrollment count shall be made on the last teaching day of each school month that  
8 ends prior to April 15 of the school year.

9 (e) The "average number of pupils enrolled per class" for kindergarten and grades  
10 1, 2, and 3 is the number obtained by dividing the sum of the active enrollment counts  
11 made under subdivision (d) for each of the classes in those grades, by the total number  
12 of those active enrollment counts.

13 (f) "Average class enrollment" means the sum of the average number of pupils  
14 enrolled per class determined pursuant to subdivision (e) for all kindergarten and  
15 grades 1, 2, and 3 classes at a school site, divided by the number of classes, then  
16 rounded to the nearest half or whole integer.

17 (g) "Maximum average class enrollment" for purposes of section 15498.3 means the  
18 amount determined by subtracting the current year average class enrollment  
19 adjustment pursuant to Education Code section 42238.02(d)(3)(B)(v) from the prior  
20 year average class enrollment pursuant to Education Code section  
21 42238.02(d)(3)(B)(i), then rounded to the nearest half or whole integer. Commencing  
22 with the 2014-15 school year, the prior year average class enrollment for purposes of  
23 Education Code section 42238.02(d)(3)(B)(i) is the maximum average class enrollment  
24 in the prior year.

25 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 37201  
26 and 42238.02, Education Code.

27  
28 **§ 15498.2. Combined Grades.**

29 For the purposes of this chapter, any class combining pupils in any grade other than  
30 kindergarten or grades 1, 2, or 3 with pupils in kindergarten or grades 1, 2, or 3, shall  
31 be considered a class of kindergarten and grades 1, 2, and 3. All of the pupils in said  
32 classes shall be included in an active enrollment count.

1 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 42238.02,  
2 Education Code.

3  
4 **§ 15498.3. Class Size Requirements of the Local Control Funding Formula.**

5 For purposes of determining if a school district meets the conditions for receiving  
6 the kindergarten and grades one through three grade span adjustment, pursuant to  
7 Education Code section 42238.02(d)(3)(B), the following shall apply:

8 (a) Every school district that elects to receive the kindergarten and grades one  
9 through three grade span adjustment shall calculate the maximum average class  
10 enrollment for each school site.

11 (b) A district's average class enrollment at each school site shall not exceed the  
12 maximum average class enrollment for each school site, unless the school district has  
13 agreed to a collectively bargained alternative annual average class enrollment for each  
14 school site pursuant to Education Code section 42238.02(d)(3)(B) for the applicable  
15 year.

16 (c) The prior year average class enrollment for a school site that did not exist in the  
17 prior year shall be the median prior year average class enrollment in kindergarten and  
18 grades 1, 2, and 3 of the other school sites in the district.

19 (d) In the case of a school district that reorganizes subsequent to fiscal year 2012-  
20 13, the provisions of Education Code section 42238.02(d)(3)(C) shall not apply unless  
21 all school sites in the reorganized school districts were at or below an average class  
22 enrollment of 24 in kindergarten and grades 1, 2, and 3.

23 (e) A school district may determine the percentage of need met as specified in  
24 Education Code section 42238.02(d)(3)(B)(iii) utilizing the estimated percentage of  
25 statewide funded need for the applicable year as calculated by the Department of  
26 Finance (DOF) based on its estimate of statewide need and the amount that it  
27 proposes to appropriate to the SSPI for allocation pursuant to Education Code section  
28 42238.03(b) and stated in DOF's May revision to the Governor's Budget.

29 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 42238.02,  
30 Education Code.