

**State of California
Office of Administrative Law**

**In re:
Board of Education**

Regulatory Action:

Title 05, California Code of Regulations

Adopt sections: 11524, 11525

Amend sections: 11520, 11521, 11522

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2016-0520-06

OAL Matter Type: Emergency (E)

This emergency regulatory action by the State Board of Education (SBE) adopts and amends sections in CCR title 5, to implement Education Code section 48412, which prohibits the California Department of Education (CDE) from charging a fee to an examinee who meets the defined criteria of a homeless youth.

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 5/31/2016 and will expire on 11/29/2016. The Certificate of Compliance for this action is due no later than 11/28/2016.

Date: May 31, 2016


Beverly J. Johnson
Deputy Director

For: Debra M. Cornez
Director

Original: Tom Torlakson

Copy: Hillary Wirick

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

EMERGENCY

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2016-0520-06E
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For use by Office of Administrative Law (OAL) only

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAY 31 2016

3:19 PM

2016 MAY 20 P 3:30
OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

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 Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	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 Disapproved/Withdrawn			NOTICE REGISTER NUMBER	PUBLICATION DATE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) California High School Proficiency Exam (CHSPE)	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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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 11524, 11525
	AMEND 11520, 11521, 11522,
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 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 checked="" 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 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 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 Hillary Wirick, Regulations Analyst	TELEPHONE NUMBER (916) 319-0644	FAX NUMBER (Optional) (916) 319-0155	E-MAIL ADDRESS (Optional) hwirick@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 5/11/16
TYPED NAME AND TITLE OF SIGNATORY Amy Bisson Holloway, General Counsel	

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ENDORSED APPROVED

MAY 31 2016

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; text proposed to
3 be deleted is displayed in ~~strikeout~~.

4
5 **Title 5. EDUCATION**

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

7 **Chapter 11. Special Programs**

8 **Subchapter 8. High School Proficiency Certificates**

9 **Article 1. Certificate of Proficiency**

10 **§ 11520. Definitions.**

11 (a) "Certificate" means a certificate of proficiency awarded by the State Board of
12 Education (SBE) as described in Education Code section 48412(a)(2).

13 (b) "Homeless Certification Form" means a form provided by the California
14 Department of Education (CDE) that is to be completed by an authorized homeless
15 services provider to verify that a youth is homeless as defined in Education Code
16 section 48412. The Homeless Certification Form (issued 03/2016) is incorporated by
17 reference in California Code of Regulations, title 5, section 11530.

18 (c)(a) "Parent" as used in Education Code Ssection 48410(e), relating to verified
19 parental approval, means the natural parent, or adoptive parent or legal guardian,
20 having legal custody of the pupil.

21 (d) "Testing accommodations" means any variation in the assessment environment
22 or process that does not fundamentally alter what the test measures or affect the
23 comparability of scores.

24 NOTE: Authority cited: Sections 48410, and 48412 ~~and 51426~~, Education Code.

25 Reference: Sections 48410 and 48412, Education Code.

26
27 **§ 11521. Placement on Pupil Transcript.**

28 A school district shall, for each pupil who demonstrates proficiency as provided in
29 Education Code Ssection 48410(e), indicate the pupil's accomplishment and the date of
30 the proficiency certificate award on the pupil's official transcript.

31 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 48410,
32 Education Code.

1 **§ 11522. Requirement for Exemption from School Attendance Form.**

2 Each school district shall develop a form which evidences parental consent for
3 exemption from further compulsory school attendance pursuant to Education Code
4 Section 48410(e). The form shall be made available upon request to 16- and 17-year-
5 old pupils who have been awarded the Certificate of Proficiency by the State Board of
6 Education demonstrated proficiency. The form shall contain at least the following
7 information:

8 (a) A general explanation of the pupil's rights of exemption from compulsory school
9 attendance and of re-enrollment in the public high schools.

10 (b) The date of issuance of a certificate of proficiency.

11 (c) The signature of the parent and the date.

12 (d) The signature of a school administrator who has personally confirmed the
13 authenticity of the parent's signature and the date.

14 NOTE: Authority cited: Sections 33031 and 48412, Education Code. Reference: Section
15 48410, Education Code.

16
17 **§ 11524. Waiver of Fees.**

18 (a) The contractor selected to administer the examination shall not collect fees from
19 individuals who are under 25 years of age, meet all other registration requirements, and
20 are verified to be homeless by a homeless services provider as defined in Education
21 Code section 48412, except for fees for additional services not related to regular test
22 registration including, but not limited to, registration for a test administration after the
23 regular registration deadline set by the contractor, request to change the testing date
24 after the regular registration deadline set by the contractor, request for a transcript or
25 duplicate certificate, or request to expedite services. The contractor shall not charge
26 fees to individuals who are verified to be homeless for any other administrative services
27 without prior approval of the CDE.

28 (b) The fee waiver for individuals who are under age 25 and are verified to be
29 homeless by a homeless services provider as defined in Education Code section 48412
30 shall include only fees for services related to test administration. The fee waiver shall
31 not include fees for services or documents required to verify the need for testing
32 accommodations, test preparation, or other services not related to test administration.

1 NOTE: Authority cited: Section 48412, Education Code. Reference: Section 48412,
2 Education Code.

3
4 **§ 11525. Homeless Certification.**

5 (a) To be eligible for a fee waiver, at the time of registration for a test administration,
6 a homeless youth must submit all standard required registration materials to the
7 contractor including documentation required for all testing accommodations that the
8 individual may need and an original completed Homeless Certification Form.

9 (b) Only the Homeless Certification Form may be used to certify that the registrant is
10 homeless. The Homeless Certification Form must include all of the following
11 information:

12 (1) The full legal name of the registrant;

13 (2) The date of birth of the registrant;

14 (3) The signature of the registrant affirming, under penalty of perjury, a statement
15 that he or she is homeless and under 25 years of age;

16 (4) The printed name of the homeless services provider;

17 (5) The title of the homeless services provider;

18 (6) The business address, phone number, and e-mail address of the homeless
19 services provider;

20 (7) The signature of the homeless services provider affirming, under penalty of
21 perjury, a statement that he or she is an authorized homeless services provider and that
22 the registrant is homeless as defined in Education Code section 48412;

23 (8) The date that the Homeless Certification Form is completed by the homeless
24 services provider; and

25 (9) The date the Homeless Certification Form expires.

26 (c) The Homeless Certification Form is valid for a period of one year from the
27 certification date and may be renewed annually until the certified homeless youth
28 reaches 25 years of age. If the certified homeless youth reaches 25 years of age within
29 one year from the certification date, the Homeless Certification Form will be valid only
30 until one day before the certified homeless youth reaches 25 years of age.

31 (d) The homeless services provider or the provider's agency shall retain a copy of all
32 Homeless Certification Forms issued to certified homeless youth until each certified
33 homeless youth reaches 28 years of age. The homeless services provider or the

1 provider's agency shall make copies of Homeless Certification Forms available to the
2 CDE upon request.

3 (e) The contractor shall retain all original Homeless Certification Forms issued to
4 certified homeless youth until each homeless youth reaches 28 years of age. The
5 contractor shall make original Homeless Certification Forms available to the CDE upon
6 request.

7 NOTE: Authority cited: Sections 33031 and 48412, Education Code. Reference:
8 Sections 48410 and 48412, Education Code.

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HOMELESS CERTIFICATION FORM

To be used by a homeless child or youth to obtain a fee waiver for a High School Equivalency Test and/or the California High School Proficiency Examination (CHSPE).

The current high school equivalency tests approved by the California State Board of Education are the General Education Development (GED) test, the High School Equivalency Test (HiSET), and the Test Assessing Secondary Completion (TASC). The CHSPE is administered by the Sacramento County Office of Education.

HOW TO OBTAIN A FEE WAIVER

To obtain a fee waiver, each eligible homeless child or youth under 25 years of age must:

1. Complete and sign Section I of this form,
2. Have an authorized homeless services provider complete and sign Section II of this form to verify the homeless status of the child or youth, and
3. Submit the original completed form to the test vendor along with his or her test registration materials. (The homeless child or youth must submit an **original** completed Homeless Certification Form to each testing contractor to which he or she registers. **Copies of the form will not be accepted.**)

Note:

- The form is valid for one year and may be renewed annually until the eligible homeless child or youth reaches 25 years of age.
- The fee waiver applies only to the regular test registration fee.

ELIGIBILITY

To meet eligibility requirements for the fee waiver, the homeless child or youth must be under 25 years of age and must meet the following definition:

"Homeless child or youth" means a homeless child or youth as defined in paragraph (2) of Section 725 of the federal "McKinney-Vento Homeless Assistance Act (42 U.S.C. Section 11434a(2)). This means:

- A) individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302(a)(1)); and
- B) includes —
 - (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
 - (ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 11302(a)(2)(C));
 - (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
 - (iv) migratory children (as such term is defined in 20 U.S.C. Section 6399) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).

HOMELESS SERVICES PROVIDER

A Homeless Certification Form can only be obtained from an authorized homeless services provider who has knowledge of the homeless status of a child or youth. The homeless services provider must verify that status by completing Section II of the Homeless Certification Form.

The information regarding who is qualified to serve as an approved homeless services provider is shown in the boxes at the end of Section II of the form. **The individual completing Section II must check the box that indicates how he or she is qualified as an approved homeless services provider.**

HOMELESS CERTIFICATION FORM

The Homeless Certification Form will not be considered complete unless signed and dated by both the homeless services provider and the person making the request for the fee waiver.

SECTION I: REQUESTOR - To be completed by the homeless child or youth making the request for the fee waiver ("requestor")

I, _____ (Full Legal Printed Name of Requestor) swear or affirm that, to the best of my knowledge and belief on the date listed below in this section, I am under 25 years of age and homeless as defined in paragraph (2) of Section 725 of the federal McKinney-Vento Homeless Act (42 U.S.C. Section 11434a(2)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Today's Date Signature of Requestor Date of Birth (mm/dd/yyyy)

SECTION II: HOMELESS SERVICES PROVIDER - To be completed by a qualified homeless services provider as defined below.

Name and Title of Homeless Services Provider Name of Entity/Agency

Address of Entity/Agency

City State Zip Code

Phone Number (including area code) E-mail

I, _____ (Printed Name of Homeless Services Provider) swear or affirm that, to the best of my knowledge and belief on the date listed below:

_____ (Printed Name of Homeless Child or Youth) is a homeless person or homeless child or youth, as defined in paragraph (2) of Section 725 of the federal McKinney-Vento Homeless Act (42 U.S.C. Section 11434a(2)), and that I am qualified as an approved homeless services provider under one of the options described below. (Please select one.)

- 1. A governmental or non-profit agency receiving federal, state, or county or municipal funding to provide services to a "homeless person" or "homeless child or youth," or that is otherwise sanctioned to provide those services by a local homeless continuum of care organization.
- 2. An attorney licensed to practice law in this state.
- 3. A local educational agency liaison for homeless children or youth designated as such pursuant to 42 U.S.C. Section 11432(g)(1)(J)(ii), or a school social worker.
- 4. A human services provider funded by the State of California to provide homeless children or youth services, health services, mental or behavioral health services, substance use disorder services, or public assistance or employment services.
- 5. A law enforcement officer designated as a liaison to the homeless population by a local police department or sheriff's department within the state.

I declare under penalty of perjury under the law of the State of California that the foregoing is true and correct.

Signature of Homeless Services Provider Today's Date Expiration Date