SixTen and Associates
Mandate Reimbursement Services

KEITH B. PETERSEN, MPA, JD, President
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Telephone: (858) 514-8605
Fax: (858) 514-8645
E-Mail: Kbpsixten@aol.com

Original Via Federal Express
Copies Via Certified Mail #7001 0360 0000 5999 9918

June 27, 2002

RECEIVED
JUN 28 2002
COMMISSION ON STATE MANDATES
10:20am

Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: TEST CLAIM OF SAN JUAN UNIFIED SCHOOL DISTRICT

Chapter 887, Statutes of 2001
Education Code Sections 44650 et al.
Title 5, California Code of Regulations, Sections 1031 through 1039
Academic Performance Index

Dear Ms. Higashi:

Enclosed are the original and seven copies of the San Juan Unified School District test claim for the above referenced mandate.

I have been appointed by the District as its representative for the test claim. The District requests that all correspondence originating from your office and documents subject to service by other parties be directed to me, with copies to:

Diana D. Halpenny, General Counsel
San Juan Unified School District
3738 Walnut Avenue, P.O. Box 477
Carmichael, California 95069-0477

Sincerely,

Keith B. Petersen

C: Dr. Carol Berg, Consultant, Education Mandated Cost Network
Diana D. Halpenny, General Counsel, San Juan Unified School District

State of California
COMMISSION ON STATE MANDATES
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562
CSM 2 (1/91)

For Official Use Only

RECEIVED
JUN 28 2002
COMMISSION ON STATE MANDATES
10:20 am

TEST CLAIM FORM

Claim No.
CSM 01-TC-22

Local Agency or School District Submitting Claim

SAN JUAN UNIFIED SCHOOL DISTRICT

Contact Person

Keith B. Petersen, President
SixTen and Associates

Telephone Number

Voice: 858-514-8605
Fax: 858-514-8645

Claimant Address

San Juan Unified School District
3738 Walnut Avenue, P.O. Box 477
Carmichael, CA 95069-0477

Representative Organization to be Notified

Dr. Carol Berg, Consultant, Education Mandated Cost Network
c/o School Services of California
1121 L Street, Suite 1060
Sacramento, CA 95814

Voice: 916-446-7517
Fax: 916-446-2011

This claim alleges the existence of a reimbursable state mandated program within the meaning of section 17514 of the Government Code and section 6, article XIII B of the California Constitution. This test claim is filed pursuant to section 17551(a) of the Government Code.

Identify specific section(s) of the chaptered bill or executive order alleged to contain a mandate, including the particular statutory code citation(s) within the chaptered bill, if applicable. **Academic Performance Index**

Chapter 887, Statutes of 2001	Education Code Section 44650	Education Code Section 44651
Chapter 749, Statutes of 2001	Education Code Section 44652	Education Code Section 44653
Chapter 745, Statutes of 2001	Education Code Section 44654	Education Code Section 52050
Chapter 159, Statutes of 2001	Education Code Section 52051	Education Code Section 52051.5
Chapter 695, Statutes of 2000	Education Code Section 52052	Education Code Section 52052.2
Chapter 190, Statutes of 2000	Education Code Section 52052.3	Education Code Section 52052.5
Chapter 71, Statutes of 2000	Education Code Section 52053	Education Code Section 52053.5
Chapter 52, Statutes of 1999	Education Code Section 52054	Education Code Section 52054.3
Chapter 3, Statutes of 1999/00	Education Code Section 52054.5	Education Code Section 52055
	Education Code Section 52055.5	Education Code Section 52055.51
Title 5, California Code of Regulations	Education Code Section 52056	Education Code Section 52056.5
Sections 1031 through 1039	Education Code Section 52057	Education Code Section 52058

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING TEST CLAIM ON THE REVERSE SIDE.

Name and Title of Authorized Representative

Diana Halpenny, Chief Counsel
San Juan Unified School District

Telephone No.

(916) 971-7109
Fax: (916) 971-7704

Signature of Authorized Representative

x Diana D. Halpenny

Date

June 24, 2002

Claim Prepared By:
Keith B. Petersen
SixTen and Associates
5252 Balboa Avenue, Suite 807
San Diego, CA 92117
Voice: (858) 514-8605
Fax: (858) 514-8645

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

Test Claim of:	)	No. CSM. 01-TC-22
	)	
	)	Chapter 887, Statutes of 2001
San Juan Unified School District	)	Chapter 749, Statutes of 2001
	)	Chapter 745, Statutes of 2001
	)	Chapter 159, Statutes of 2001
	)	Chapter 695, Statutes of 2000
	)	Chapter 190, Statutes of 2000
	)	Chapter 71, Statutes of 2000
	)	Chapter 52, Statutes of 1999
	)	Chapter 3, Statutes of 99-00 (1X)
	)	
	)	Education Code Sections 44650,
	)	44651, 44652, 44653 and 44654
	)	and
	)	Education Code Sections 52050,
	)	52051, 52051.5, 52052, 52052.2,
Test Claimant.	)	52052.3, 52052.5, 52053, 52053.5,
	)	52054, 52054.3, 52054.5, 52055
	)	52055.5, 52055.51, 52056,
	)	52056.5, 52057, 52058
	)	
_____	)	Title 5, Code of Regulations
		Sections 1031 through 1039
		Academic Performance Index

PART I. AUTHORITY FOR THE CLAIM

The Commission on State Mandates has the authority pursuant to Government Code section 17551(a) to ". . . hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution." San Juan Unified School District is a "school district" as defined in Government Code section 17519.[1]

PART II. LEGISLATIVE HISTORY OF THE CLAIM

This test claim alleges mandated costs reimbursable by the state for school districts to perform administrative, accounting, payroll and other administrative activities related to the Public School Performance Accountability Program, including the calculation and administration of the state Academic Performance Index, the duties required by the Immediate Intervention/Underperforming School Program and the accounting and payroll activities occasioned by the Governor's High Achieving Schools Program, including the one-time Academic Performance Index Schoolsite Employees Performance Bonus and unrelated unfunded employee benefit costs. The test claim also alleges reimbursable costs incurred in conjunction with the Certificated Staff Performance Incentive Act, including receiving and disbursement of awards.

/

[1] Government Code Section 17519, as added by Chapter 1459/84:

"School district" means any school district, community college district, or county superintendent of schools."

1 SECTION 1. LEGISLATIVE HISTORY PRIOR TO JANUARY 1, 1975

2 Prior to 1975, there was no requirement that the State Superintendent of
3 Public Instruction develop an Academic Performance Index (API), there was no
4 Immediate Intervention/Underperforming School Program and there was no
5 Governor's High Achieving Schools Program. There was no statutory requirement
6 that school districts collect or report the information required for the State
7 Superintendent to develop the API. Districts were not required to administer
8 grants or financial awards originating from any API-related disbursement program.
9 Districts were also not required to provide matching funds or incur administrative
10 costs and salary-driven benefit costs, such as the employer's share of Medicare,
11 unemployment insurance or workers' compensation expenses.

12 SECTION 2. LEGISLATIVE HISTORY AFTER JANUARY 1, 1975

13 Chapter 3, Statutes of 1999-2000, (1st Ex.Sess.), Section 1, effective June
14 25, 1999, established the Public School Performance Accountability Program
15 (Education Code Sections 52050 et seq.).

16 Section 52050[2] requires the Chapter to be known as the Public Schools
17 Accountability Act of 1999.

18 Section 52051[3] established the program and identified its three component
19 parts: (a) The state Academic Performance Index, to be known as the API

[2] Education Code Section 52050, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999:

"This chapter shall be known and may be cited as the Public Schools Accountability Act of 1999."

1 (Education Code Section 52052), (b) the Immediate Intervention/Underperforming
2 School Program (Education Code Sections 52053 through 52055.51), and (c) the
3 Governor's High Achieving Schools Program (Education Code Sections 52056
4 through 52058).

5 Section 52051.5[4] defined "schools" to include charter schools.

6 Section 52052[5] required the Superintendent of Public Instruction to develop
7 an Academic Performance Index to be used to measure the performance of

---

[3] Education Code Section 52051, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999

"The Public School Performance Accountability Program is hereby established and shall consist of the following three component parts:
(a) The state Academic Performance Index, to be known as the API.
(b) The Immediate Intervention/Underperforming Schools Program.
(c) The Governor's High Achieving/Improving Schools Program."

[4] Education Code Section 52051.5, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999

"For purposes of this chapter, all references to schools shall include charter schools."

[5] Education Code Section 52052, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999:

"(a) By July 1, 1999, the Superintendent of Public Instruction, with approval of the State Board of Education, shall develop an Academic Performance Index to be used to measure performance of schools, especially the academic performance of pupils, and demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools. A numerically significant ethnic or socioeconomically disadvantaged subgroup is a subgroup that constitutes at least 15 percent of a school's total pupil population and consists of at least 30 pupils. The index shall consist of a variety of indicators currently reported to the State Department of Education including, but not limited to, the results of the achievement test administered pursuant to Section 60640, attendance rates for pupils and certificated school personnel for elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools. The pupil data collected for the API that comes from the achievement test administered

pursuant to Sections 60640 and 60644 and the high school exit examination, when fully implemented, shall be disaggregated by special education status, English language learners, socioeconomic status, gender and ethnic group. Only the test scores of pupils enrolled in a school district for one year or more may be included in the test results reported in the API. Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index. Before including high school graduation rates and attendance rates in the index, the Superintendent of Public Instruction shall determine the extent to which the data is currently reported to the state and the accuracy of the data. If the Superintendent of Public Instruction determines that accurate data for these indicators is not available, the Superintendent of Public Instruction shall report to the Governor and the Legislature by September 1, 1999, and recommend necessary action to implement an accurate reporting system.

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The assessment of the applied academic skills matrix test pursuant to Section 60604.

(2) The nationally normed test as augmented pursuant to paragraph (1) of subdivision (f) of Section 60644.

(3) The high school exit examination.

(c) Based on the API, the Superintendent of Public Instruction shall develop, and the State Board of Education shall adopt, expected annual percentage growth targets for all schools based on the their API baseline score as measured in July 1999. Schools are expected to meet these growth targets through effective allocation of available resources. The minimum percentage growth target shall be 5 percent annually. However, the State Board of Education may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement.

(d) Upon adoption of state performance standards by the State Board of Education, the Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target. When fully developed, schools may either meet the state target or meet their growth targets to be eligible for the Governor's Performance Award Program as set forth in Section 52057.

(e) Beginning in June 2000, the API shall be used for both of the following:

(1) Measure the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Rank all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

(f) Only comprehensive high schools, middle schools, and elementary schools that have a population of 100 or more pupils may be included in the API rating.

1 schools based upon specific factors. Based on the API, the Superintendent of
2 Public Instruction was required to develop, and the State Board of Education was
3 required to adopt, expected annual percentage growth targets. Subdivision (d)
4 allowed schools that meet growth targets to be eligible for the Governor's High
5 Achieving Schools Program. Subdivision (e) required, beginning in June 2000, the
6 API to be used both to measure the progress of schools selected for participation
7 in the Immediate Intervention/Underperforming School Program and to rank all
8 public schools for the purpose of the High Achieving/Improving Schools Program.
9 Subdivision (f) limited the API to include only comprehensive high schools, middle
10 schools and elementary schools with a population of 100 or more pupils. By July
11 1, 2000, the Superintendent of Public Instruction was required to develop an
12 alternative accountability system for schools with fewer than 100 pupils, and for
13 schools under the jurisdiction of a county board of education or a county
14 superintendent of schools, community day schools and independent study
15 schools.
16 Section 52052.5[6] required the Superintendent of Public Instruction to
17 establish an advisory committee to advise the Superintendent of Public Instruction

---

(g) By July 1, 2000, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall develop an alternative accountability system for schools with fewer than 100 pupils, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools."

[6] Education Code Section 52052.5, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999

1 and the State Board of Education relative to the Immediate Intervention/Under-
2 performing School Program, the Academic Performance Index and the High
3 Achieving/Improving Schools Program.

4 Chapter 3, Statutes of 1990-2000, (1st Ex. Sess), Section 1, (effective June
5 25, 1999) added the Immediate Intervention/Underperforming School Program
6 (Education Code Sections 52053 through 52055.51).

7 Section 52053[7] established the program and required the Superintendent of
8 Public Instruction, with the approval of the State Board of Education, to invite

---

"The Superintendent of Public Instruction shall establish a broadly representative and diverse advisory committee to advise the Superintendent of Public Instruction and the State Board of Education on all appropriate matters relative to the creation of the Academic Performance Index and the implementation of the Immediate Intervention/Underperforming Schools Program and the High Achieving/Improving Schools Program. Members of the advisory committee shall serve without compensation for terms not to exceed two years. The State Department of Education shall provide staff to the advisory panel."

[7] Education Code Section 52053, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999:

"(a) The Immediate Intervention/Underperforming Schools Program is hereby established. By August 15, 1999, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall invite schools that scored below the 50th percentile on the achievement tests administered pursuant to Section 60640 both in the spring of 1998 and in the spring of 1999 to participate in the Immediate Intervention/Underperforming Schools Program. A school invited to participate may take any action not otherwise prohibited under state or federal law and that would not require reimbursement by the Commission on State Mandates to improve pupil performance.

(b) The total number of schools participating in the program shall be 430. Unless subdivision (d) applies, schools that apply will be selected based on the order in which they apply within ranks of deciles, not to exceed 86 per decile, within the following grade level categories:

(1) No more than 301 elementary schools.
(2) No more than 78 middle schools.
(3) No more than 52 high schools.

(c) The 86 schools selected within each decile range pursuant to subdivision (b) shall proportionately represent elementary, middle, and high

1 underperforming schools to participate in the Immediate Intervention/Under-
2 performing School Program. Subdivision (d) provides that if fewer than the allotted
3 number of schools do not apply for the program, the Superintendent of Public
4 Instruction, with the approval of the State Board of Education, shall randomly
5 select other underperforming schools to participate in the Immediate
6 Intervention/Underperforming School Program.

7 Section 52053.5[8] requires the Superintendent of Public Instruction to
8 develop, and the State Board of Education to approve, minimum qualifications for

---

schools and shall provide statewide proportionate geographic representation of urban and rural schools.

(d) If fewer than the number of schools in any grade level category apply, schools that scored below the 50th percentile in those grade level categories that did not apply for the program shall randomly be selected by the Superintendent of Public Instruction, with the approval of the State Board of Education, to participate based on their proportional representation in the state until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(e) If more than the requisite number of schools apply for any grade level category, the Superintendent of Public Instruction shall select an array of schools that reflect a broad range of academic performance of schools that scored below the 50th percentile, until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(f) A school selected to participate on or before September 1, 1999, shall be awarded a planning grant from funds appropriated pursuant to paragraph (1) of subdivision (a) of Section 2 of the act adding this section in the amount of fifty thousand dollars ($50,000). A school selected to receive federal funds pursuant to paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall be awarded an implementation grant in an amount of at least fifty thousand dollars ($50,000) pursuant to Public Law 105-78.

(g) Schools receiving funding under paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall comply with Public Law 105-78.

(h) Schools selected for participation in the program shall be notified by the Superintendent of Public Instruction no later than September 1 of each year."

[8] Education Code Section 52053.5, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999:

"(a) The Superintendent of Public Instruction shall develop, and the State Board of Education shall approve, the minimum qualifications for external

1 external evaluators, to establish a list of external evaluators that meet minimum

2 qualifications and to develop standards and criteria to be applied by external

3 evaluators when carrying out their duties.

4 Section 52054[9] requires the governing board of a school district having

5 jurisdiction of a school selected for participation in the program to contract with an

---

evaluators that shall include, but may not be limited to, recent successful professional, managerial or governing board experience in improving school achievement, and the ability to assist the school to systematically align curriculum, instruction, and assessment. The external evaluators shall also have demonstrated experience in working with diverse populations. With the approval of the State Board of Education, the Superintendent of Public Instruction shall develop and disseminate an application process by which to establish a list of external evaluators that meet the minimum qualifications. The list of approved external evaluators may include private sector experts, institutions of higher education, county offices of education, and educational consortia.

(b) The Superintendent of Public Instruction shall develop, and the State Board of Education shall approve, the standards and criteria to be applied by external evaluators in carrying out their duties. The standards and criteria shall include, but are not limited to, the following areas:

(1) Governing board policies.
(2) Curriculum management.
(3) Fiscal management.
(4) Parental and community involvement.
(5) Personnel management.
(6) Facilities management."

[9] Education Code Section 52054, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999:

"(a) By October 1 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program shall contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

(b) By November 15 of the year that the school is selected to participate, the selected external evaluator shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator shall do all of the following:

(1) Inform the parents and legal guardians, in writing, that the school has been selected to participate in the Immediate Intervention/Underperforming Schools Program due to its below average performance.

(2) Hold a public meeting at the school, in cooperation with the principal, to which all parents and legal guardians of pupils in the school receive a written invitation. The invitation to the meeting may be combined with the written notice required by paragraph (1).

(3) Solicit, at the public meeting, the recommendations and opinions of the participating parents and legal guardians of pupils in the school regarding actions that should be taken to improve the performance of the school. These opinions and recommendations shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section.

(4) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By December 15 of the school year that the school is selected to participate, the selected external evaluator shall complete a review of the school that identifies weaknesses that contribute to the school's below average performance and make recommendations for improvement.

(d) By March 15 of the year that follows the year the school is selected to participate, the external evaluator and the schoolsite and community team selected pursuant to subdivision (a) shall develop an action plan to improve the academic achievement of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the State Board of Education pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a scope that requires reimbursement by the Commission on State Mandates for its implementation.

(e) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

(2) Identify the current barriers at the school and district toward improvements in pupil achievement.

(3) Identify schoolwide and districtwide strategies to remove these barriers.

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding the achievement of English language learners, economically disadvantaged pupils, and other groups of pupils, by race, ethnicity, and gender.

(6) Set short-term academic objectives pursuant to Section 52052 for a two-year period that will allow the school to make adequate progress toward the growth targets established for each participating school for pupil achievement as measured by all of the following to the extent that the data is available for the school:

(A) The achievement test administered pursuant to Section 60640.

(B) Graduation rates for grades 7 to 12, inclusive.

(C) Attendance rates for pupils and school personnel for elementary, middle, and secondary schools.

(D) Any other indicators approved by the State Board of Education.

(f) The school action plan shall focus on improving pupil academic performance, improving the involvement of parents and guardians, improving the effective and efficient allocation of resources and management of the school, and identifying and developing solutions that take into account the underlying causes for low performance by pupils.

(g) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(h) Upon its completion, the action plan shall be submitted to the governing board of the school districts for its approval. After the plan is approved, but no later that April 15 of the year that follows the year the school is selected to participate, the plan shall be submitted to the Superintendent of Public Instruction with a request for funding in the form prescribed by the Superintendent of Public Instruction.

(i) Not later than May 15 of the year next following the year in which a school is selected for participation, the State Board of Education shall review and approve or disapprove the school's request for funding, based on the recommendation of the Superintendent of Public Instruction. In conjunction with its approval of a request for funding to implement a school's action plan, the State Board of Education may waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 if the waiver does not result in a decrease

1 external evaluator from the list and to appoint a broad-based schoolsite and
2 community team, consisting of a majority of nonschoolsite personnel. Subdivision
3 (b) requires the selected external evaluator, by November 15 of the year that the
4 school is selected, to solicit input from parent and legal guardians of the pupils of
5 the school and, at a minimum, to (1) inform all parents and guardians, in writing,
6 that the school has been selected to participate due to its below average
7 performance, (2) hold a public meeting to which all parents and guardians are
8 invited in writing, (3) solicit at the meeting the opinions of the parents and
9 guardians as to what actions should be taken to improve performance, and (4)
10 notify all parents and guardians of their opportunity to provide written
11 recommendations of actions which should be taken. Subdivision (c) requires the
12 selected external evaluator to complete a review of the school which identifies
13 weaknesses and make recommendations for improvement by December 15 of the
14 school year the school is selected to participate. Subdivision (d) requires the
15 external evaluator and the schoolsite and community team to develop an action
16 plan to improve the academic achievement of pupils at the school by March 15 of
17 the year that follows the year of selection and shall include an expenditure plan
18 which may require both expenditure of funds provided and other funds otherwise
19 available to the school. Subdivision (h) requires that the action plan be submitted
20 to the governing board of the school district for approval and, after approval but
21 not later than April 15 of the year that follows the year of selection, the plan shall

---

in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300.

1 be submitted to the Superintendent of Public Instruction with a request for funding.
2 Subdivision (i) requires the State Board of Education to review and approve or
3 disapprove the school's request for funding no later than May 15 of the year
4 following the year of selection.

5 Section 52054.5[10] provides that a school whose application is approved on
6 or before June 15 of the year following the year of selection shall receive a grant
7 for implementing the program. Schools that apply after June 15 may receive a
8 grant if funds are appropriated for that purpose. As a condition of receiving these
9 grants, the school or school district shall provide matching funds.

10 Section 52055[11] requires the governing board of a school that fails to meet
11 its annual short-term growth target within 12 months following receipt of funding to

---

[10] Education Code Section 52054.5, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999:

"A school whose application is approved on or before June 15 of the year following the year in which a school is selected for funding shall receive a grant for implementing the program, in each fiscal year that it participates in the program, in an amount up to two hundred dollars ($200) per pupil enrolled in the school, with a minimum allocation of fifty thousand dollars ($50,000) per schoolsite. A school that applies after June 15 may receive a grant for implementing the program if funds are appropriated for this purpose in the Budget Act. As a condition of receiving this funding, a participating school or the school district having jurisdiction over that school shall match the amount of state funding from any new or existing sources of funding. To help meet this matching requirement, a participating school and the governing board of the school district having jurisdiction over that school shall receive maximum flexibility in the expenditure of any new or existing categorical funds not otherwise prohibited by state or federal law and shall redirect for the purposes of their academic improvement plan new or existing categorical or general purpose funds."

[11] Education Code Section 52055, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999:

"The governing board of a school that fails to meet its annual short-term growth target within 12 months following receipt of funding pursuant to Section 52054.5

1 hold a public hearing to ensure that members of the school community are aware
2 of the lack of progress. The governing board shall, upon consultation with the
3 external evaluator and the schoolsite and community team, choose from a range
4 of interventions, including reassignment of school personnel, negotiation of site-
5 specific amendments to collective bargaining agreements, or other changes
6 deemed appropriate in order to continue implementation of the action plan and to
7 make progress toward meeting the school's growth targets.
8 Section 52055.5[12] provides that, following 24 months after receipt of
9 funding, a school that meets or exceeds its growth target each year shall receive a

---

shall hold a public hearing at a regularly scheduled meeting to ensure that members of the school community are aware of the lack of progress. The governing board of the school district shall, upon consultation with the external evaluator and the schoolsite and community team selected pursuant to Section 52054, choose from a range of interventions for the school, including reassignment of school personnel to the extent authorized by law, negotiation of site-specific amendments to collective bargaining agreements, or other changes deemed appropriate, in order to continue implementing the action plan approved pursuant to Section 51054, and to make progress toward meeting the school's growth targets."

[12] Education Code Section 52055.5, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999:

"(a) Following 24 months after receipt of funding pursuant to Section 52054.5, a school that meets or exceeds its growth target each year shall receive a monetary or nonmonetary award, under the Governor's Performance Award Program, as set forth in Section 52057. Funds received from this program shall be used at the school's discretion.

(b) Following 24 months after receipt of funding pursuant to Section 52054.5, a school that has not met its performance goals, but demonstrates significant growth, as determined by the State Board of Education, shall continue to participate in the program for an additional year and to receive funding in the amount specified in Section 52054.5.

(c) A school that does not meet its performance goals within 24 months after receipt of funding pursuant to Section 52054.5 and has failed to show significant growth, as determined by the State Board of Education, shall be deemed a low-performing school. Notwithstanding any other provision of law, the

Superintendent of Public Instruction shall assume all the legal rights, duties, and powers of the governing board with respect to that school. The Superintendent of Public Instruction, in consultation with the State Board of Education and the governing board of the school district, shall reassign the principal of that school subject to the findings in subdivision (e). In addition to reassigning the principal, the Superintendent of Public Instruction, in consultation with the State Board of Education, shall, notwithstanding any other provision of law, do at least one of the following:

(1) Revise attendance options for pupils to allow them to attend any public school in which space is available. If additional attendance options are made available, nothing in this option shall be construed to require either the sending or receiving school district to incur additional transportation costs.

(2) Allow parents to apply directly to the State Board of Education for the establishment of a charter school and allow parents to establish the charter school at the existing schoolsite.

(3) Under the supervision of the Superintendent of Public Instruction, assign the management of the school to a college, university, county office of education, or other appropriate educational institution. However, the Superintendent of Public Instruction may not assume the management of the school.

(4) Reassign other certificated employees of the school.

(5) Renegotiate a new collective bargaining agreement at the expiration of the existing collective bargaining agreement.

(6) Reorganize the school.

(7) Close the school.

(d) In addition to the actions listed in subdivision (c), the Superintendent of Public Instruction, in consultation with the State Board of Education, may take any other action considered necessary or desirable against the school district or the school district governing board, including appointment of a new superintendent or suspension of the authority of the governing board with respect to the school or schools identified pursuant to subdivision (c).

(e) Before the Superintendent of Public Instruction may take any action against a principal pursuant to subdivision (c), the Superintendent of Public Instruction or a designee of the superintendent shall hold a public hearing on the matter in the school district and make both of the following findings:

(1) A finding that the principal had the authority to take specific enumerated actions that would have helped the school meet its performance goals.

(2) A finding that the principal failed to take specific enumerated actions pursuant to paragraph (1).

(f) An action taken pursuant to subdivision (c), (d), or (e) shall not increase local costs or require reimbursement by the Commission on State Mandates.

(g) An action taken pursuant to subdivision (c), (d), or (e) shall be accompanied by specific findings by the Superintendent of Public Instruction and

1 monetary or nonmonetary award under the Governor's Performance Award
2 Program, as set forth in Section 52057. Subdivision (b) provides that, following 24
3 months after receipt of funding, a school that has not met its performance goals,
4 but demonstrates significant growth, shall continue to participate in the program
5 and receive funding for an additional year. Subdivision (c) provides that a school
6 that does not meet its performance goals within 24 months after funding and has
7 failed to show significant growth, shall be deemed a low-performing school. Upon
8 that determination, the Superintendent of Public Instruction shall assume all the
9 legal rights, duties and powers of the governing board with respect to that school.
10 The Superintendent of Public Instruction, in consultation with the State Board of
11 Education, shall reassign the principal of that school and shall do at least one of
12 the following: (1) revise attendance options, (2) allow parents to apply for the
13 establishment of a charter school, (3) reassign management of the school, (4)
14 reassign other certificated employees, (5) renegotiate a new collective bargaining
15 agreement, (6) reorganize the school or (7) close the school.
16 Chapter 3, Statutes of 1999-2000, (1st Ex. Sess.), Section 1, (effective June
17 25, 1999), added the "the High Achieving/Improving Schools Program" (Education
18 Code Sections 52056 through 52058).
19 Education Code Section 52056[13] establishes the High Achieving/Improving
20 Schools Program and requires the Superintendent of Public Instruction to rank all

---

the State Board of Education that the action is directly related to the identified causes for continued failure by a school to meet its performance goals."

[13] Education Code Section 52056, as added by Chapter 3, Statutes of 1999-2000 (1st Ex. Sess.), Section 1:

1 public schools based on their API and establish the school's target annual growth
2 rates, their actual growth rates and growth rate comparisons. Subdivision (b)
3 requires, commencing in July 2000, and every July thereafter, all schools to report
4 their ranking in their annual school accountability report card pursuant to Sections
5 33126 and 35256. Subdivision (c) requires, commencing in July 2000, and every
6 July thereafter, the governing board of each school district to discuss the results of
7 the annual ranking at a regularly scheduled meeting.

8 Education Code Section 52056.5[14] provides that schools that do not meet
9 their growth targets, as established by the Superintendent of Public Instruction,
10 may be subject to the Immediate Intervention/Underperforming Schools program.

"(a) The High Achieving/Improving Schools Program is hereby established. Commencing in June 2000, and every June thereafter, the Superintendent of Public Instruction, with approval of the State Board of Education, shall rank all public schools based on the Academic Performance Index established pursuant to Section 52052. The schools shall be ranked in decile categories by grade level of instruction provided and shall include three categories: elementary, middle, and high school. Commencing in June 2001, the rankings shall indicate the target annual growth rates of schools, the actual growth rates attained by the schools, and how growth rates compare schools that have similar characteristics. For purposes of this section, similar characteristics include, but are not limited to, the following characteristics, insofar as data is available from the State Department of Education's data: pupil mobility, pupil ethnicity, pupil socioeconomic status, percentage of teachers who are fully credentialed, percentage of teachers who hold emergency credentials, percentage of pupils who are English language learners, average class size per grade level, and whether the schools operate multitrack year-round educational programs. The Superintendent of Public Instruction shall annually publish these rankings on the Internet.

(b) Commencing in July 2000, and every July thereafter, all schools shall report their ranking, including a description of the components of the ranking, in their annual school accountability report card pursuant to Sections 33126 and 35256.

(c) Commencing in July 2000, and every July thereafter, the governing board of each school district shall discuss the results of the annual ranking at a regularly scheduled meeting."

[14] Education Code Section 52056.5, as added by Chapter 3, Statutes of 1999-

1 Education Code Section 52057[15] requires the State Board of Education to

2 establish the Governor's Performance Award Program to provide both monetary

---

2000 (1st Ex. Sess.), Section 1:

"Commencing with the 2000-01 fiscal year, a school that fails to meet annual state growth targets established pursuant to Section 52052 may, as determined by the Superintendent of Public Instruction with the approval of the State Board of Education, be subject to the Immediate Intervention/Underperforming Schools Program pursuant to subdivisions (e) and (f) of Section 52053, and Sections 52053.5, 52054, 52054.5, 52055, and 52055.5."

[15] Education Code Section 52057, as added by Chapter 3, Statutes of 1999-2000 (1st Ex. Sess.), Section 1:

"(a) The State Board of Education shall establish a Governor's Performance Award Program to provide monetary and nonmonetary awards to schools that meet or exceed API performance growth targets established pursuant to Section 52052, and demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools.

(b) All schools, including schools participating in the Immediate Intervention/Underperforming Schools Program are eligible to participate in the Governor's Performance Award Program. The manner and form in which the monetary and nonmonetary awards are given shall be established by the Superintendent of Public Instruction and approved by the State Board of Education. The monetary awards shall be made available on either a per pupil or per school basis, not to exceed one hundred fifty dollars ($150) per pupil enrolled and subject to funds appropriated in the annual Budget Act. A school that continues to show improvement in successive years is eligible to receive annual bonuses.

(c) In addition to or in substitution of monetary awards, the Superintendent of Public Instruction may establish, upon approval by the State Board of Education, nonmonetary awards that may include, but are not limited to, classification as a distinguished school, listing on a published public school honor roll, and public commendations by the Governor and the Legislature.

(d) A school that is eligible to participate in the Governor's Performance Award Program may request the State Board of Education to waive, all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000, and the board may grant the request if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300.

(e) A school that demonstrates significant growth shall be granted

1 and non-monetary awards to schools that meet or exceed their API performance

2 target growth. Monetary awards shall be made available either on a per pupil or

3 per school basis.

4 Education Code Section 52058[16], requires, by January 31, 2002, each

5 school district with schools participating in the Immediate Intervention/

---

maximum flexibility in its expenditure of any new or existing categorical funds not otherwise prohibited under state or federal law to enable the school to continue improvement in pupil performance."

[16]Education Code Section 52058, as added by Chapter 3, Statutes of 1999-2000 (1st Ex. Sess.), Section 1:

"(a) By January 31, 2002, each school district with schools participating in the Immediate Intervention/Underperforming Schools Program established pursuant to Section 52053 shall submit to the Superintendent of Public Instruction an evaluation of the impact, costs, and benefits of the program as it relates to the school district and the schools under its jurisdiction that are participating in the program and whether or not the schools met their growth targets, with an analysis of the reasons why the schools have or have not met those growth targets. Costs to develop and submit the evaluation shall be funded with resources provided pursuant to Article 3 (commencing with Section 52053).

(b) By January 15, 2000, the Superintendent of Public Instruction shall develop, and the State Board of Education shall approve, the guidelines for a request for proposal for an independent evaluator as described in this subdivision. By September 1, 2000, the Superintendent of Public Instruction shall contract with an independent evaluator to prepare a comprehensive evaluation of the implementation, impact, costs, and benefits of the Immediate Intervention/Underperforming Schools Program and the High Achieving/Improving Schools Program. The preliminary results of the evaluation shall be disseminated to the Legislature, the Governor, and interested parties no later than March 31, 2002, with a final report no later than June 30, 2002. The final report shall include recommendations for necessary or desirable modifications to the programs established pursuant to this chapter.

(c) The evaluations shall consider all of the following:

(1) Pupil performance data, including, but not limited to, results of assessments used to determine whether or not schools have made significant progress towards meeting their growth targets.

(2) Program implementation data, including, but not limited to, a review of startup activities, community support, parental participation, staff development activities associated with implementation of the program,

1 Underperforming School Program to submit to the Superintendent of Public
2 Instruction an evaluation of the impact, costs, and benefits of the program and a
3 report as to whether or not the schools met their growth targets, with an analysis of
4 the reasons why the schools have or have not met those growth targets.

5 Chapter 52, Statutes of 1999 added "The Certificated Staff Performance
6 Incentive Act" (CSPIA) to the Education Code (Sections 44650 through 44654),
7 effective July 1, 1999).

8 Section 44650[17] establishes the act for the purpose of awarding one-time
9 performance awards to teachers and other certificated staff in underachieving

---

percentage of fully credentialed teachers, percentage of teachers who hold emergency credentials, percentage of teachers assigned outside their subject area of competence, the accreditation status of the school if appropriate, average class size per grade level, and the number of pupils in a multitrack year-round educational program.

(3) (A) Pupil performance data, and its impact on the API, for each of the following subgroups:

(i) English language learners.

(ii) Pupils with exceptional needs.

(iii) Pupils that qualify for free or reduced price meals and are enrolled in schools that receive funds under Chapter 1 of the federal Elementary and Secondary Education Act of 1965, as amended by the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (P.L. 100-290).

(B) Information concerning individual pupils may not be disclosed in the process of preparing pupil performance data pursuant to this subdivision.

(d) The Superintendent of Public Instruction shall recommend and the State Board of Education shall approve a schedule for biennial evaluations of the programs established pursuant to this chapter, subsequent to the evaluation required by this section. The biennial evaluations shall be submitted, with appropriate recommendations, by June 30 of every odd-numbered year, commencing with the year 2003.

[17] Education Code Section 44650, as added by Chapter 52, Statutes of 1999, Section 1 (effective July 1, 1999):

1 schools, where the academic performance of pupils significantly improves beyond
2 minimum percentage growth targets. Subsection (b) requires the State Board of
3 Education to establish criteria for determining the eligibility of schools to receive
4 awards and determine the amount to be allocated to a school based upon the
5 number of teachers and other certificated staff eligible to receive an award.
6 Section 44651[18] allows school districts and charter schools (but not county
7 offices of education) to apply for funding and sets forth eligibility requirements.

"(a) The Certificated Staff Performance Incentive Act is hereby established for the purpose of awarding one-time performance awards to teachers and other certificated staff in underachieving schools, where the academic performance of pupils significantly improves beyond the minimum percentage growth target established pursuant to Section 52052.

(b) The State Board of Education shall establish criteria for determining the eligibility of schools to receive the awards and shall determine the amount to be allocated to a school, based on the number of teachers and other certificated staff eligible to receive an award. The maximum award allocated to a school per full-time equivalent certificated staff shall not exceed twenty-five thousand dollars ($25,000). The total amount of the awards allocated under this article shall not exceed the total amount appropriated for the purposes of this article.

(c) This article shall be implemented subject to the appropriation of funds for the purpose of this article in the annual Budget Act."

[18] Education Code Section 44651, as added by Chapter 52, Statutes of 1999, Section 1 (effective July 1, 1999):

"(a) Any school district or charter school that maintains classes in kindergarten or any of grades 1 to 12, inclusive, may apply for funding under this article if it meets the conditions of subdivision (b). County boards of education, county superintendents of schools, and state agencies shall not be eligible to participate.

(b) To be eligible for funding under this article, a school shall meet all of the following conditions:

(1) The school's aggregate score for student performance on the state Academic Performance Index established pursuant to Section 52052 was below the 50th percentile relative to other public schools in the state in the prior year.

(2) The school has met the criteria established by the board pursuant to subdivision (b) of Section 44650."

1 Section 44652[19] requires the Superintendent of Public Instruction (SPI) to
2 allocate funds to school districts and charter schools when they have certified to
3 the SPI that they satisfy the eligibility requirements of Section 44651(b). It also
4 requires the Superintendent of Public Instruction to notify the teachers' exclusive
5 representatives when those funds are available.
6 Section 44653[20], requires that the governing board of a school district ,
7 when receiving an award as part of the Certificated Staff Performance Incentive
8 Act, to negotiate with the exclusive representative of the bargaining unit
9 representing the certificated teachers to determine how the funds are to be

---

[19] Education Code Section 44652, as added by Chapter 52, Statutes of 1999, Section 1 (effective July 1, 1999):

"The Superintendent of Public Instruction shall allocate funds to school districts and charter schools that have certified to the superintendent that they satisfy the conditions of subdivision (b) of Section 44651, based on the amount determined pursuant to subdivision (b) of Section 44650. At the time of the allocation the Superintendent of Public Instruction shall notify the exclusive representatives of the teachers and other certificated staff in each district of the availability of these funds."

[20] Education Code Section 44653, as added by Chapter 52, Statutes of 1999, Section 1 (effective July 1, 1999):

" Upon receiving an allocation from the Superintendent of Public Instruction for the purpose of awarding awards, the governing board of the school district shall negotiate individual teacher and other certificated staff salary award amounts with the exclusive representative of the bargaining unit of the teachers and other certificated staff. In the event that the governing board and the exclusive representative of teachers and other certificated staff do not reach an agreement regarding the amount of the award or if the teachers and other certificated staff are not represented by an exclusive bargaining representative, all teachers and other certificated staff at the school shall receive a salary award amount that is equal to a percentage of their base salary that is determined by dividing the total amount awarded to a school by the sum of the annual base salaries for teachers and other certificated staff of the school."

1 distributed. In the event they do not reach an agreement, or if the teachers and
2 other certificated staff are not represented by an exclusive bargaining
3 representative, all teachers and other certificated staff at the school shall receive
4 an apportioned salary award.

5 Section 44654[21] requires that any distributions to staff not be classified as
6 compensation for purposes of calculating retirement benefits or any other benefit
7 that relies on a compensation based calculation.

8 Chapter 71, Statutes of 2000, Section 18, effective July 5, 2000, added
9 Education Code Section 52052.3[22] to provide that the test scores of first year high

---

[21] Education Code 44654, as added by Chapter 52, Statutes of 1999, effective July 5, 2000:

"(a) Funds awarded pursuant to this article shall not become part of a district's revenue limit, and shall be identified as a separate item of expenditure on any financial reports filed by school districts with the state pursuant to any state law or regulation.

(b) Salary award amounts received by teachers and other certificated staff pursuant to this article shall not be considered compensation for the purposes of calculating retirement benefits or contributions, or for any other benefit that an employee is eligible to receive where the benefit or contribution amount is calculated based on compensation.

(c) It is the intent of the Legislature that funds appropriated for the purposes of this article shall be fully expended based on the criteria established in subdivision (b) of Section 44650. However, if unexpended funds are available, they shall continue to be available for allocation for the intended purpose of the appropriation in subsequent years."

[22] Education Code Section 52052.3, added by Chapter 71, Statutes of 2000, Section 18 (effective July 5, 2000):

"Test scores of pupils who are in the first year of enrollment in a high school, but who, in the prior year, were enrolled in an elementary school district that normally matriculates to the high school district, shall be included in the Academic Performance Index, as provided in Section 52052."

1 school students who were enrolled in an elementary school district that normally

2 matriculates to that high school district, shall be included in the Academic

3 Performance Index.

4 Chapter 71, Statutes of 2000, Section 40[23] (effective July 5, 2000) created

5 the one-time Academic Performance Index Schoolsite Employees Performance

[23] Section 40, Chapter 71, Statutes of 2000, effective July 5, 2000:

"(a) (1) The sum of three hundred fifty million dollars ($350,000,000) is hereby appropriated from the General Fund, for transfer by the Controller to Section A of the State School Fund, for allocation on a one-time basis by the Superintendent of Public Instruction to school districts, county offices of education, and charter schools for the Academic Performance Index Schoolsite Employees Performance Bonus.

(2) As a condition of receiving funds pursuant to this section, school districts, county offices of education, and charter schools shall, upon request by the Superintendent of Public Instruction and by November 1, 2000, certify the number of full-time equivalent employees employed as of the second principal apportionment of the 1999-2000 school year at each schoolsite under their jurisdiction that are eligible for awards in accordance with subdivision (a) of Section 52057, the Governor's Performance Award Program.

(3) Upon receipt of the certifications the Superintendent of Public Instruction shall calculate a statewide amount per full-time equivalent employee, the sum of which shall not exceed three hundred fifty million dollars ($350,000,000). The Superintendent of Public Instruction shall then apportion an equal amount per full-time equivalent employee to the appropriate school district, county office of education, or charter school for allocation to the schoolsites that have met or exceeded their Academic Performance Index growth target.

(4) As a condition of receiving funds pursuant to this section, a schoolsite shall expend 50 percent of the funds to provide one-time bonuses, to its employees, to be divided equally among all schoolsite employees on a full-time equivalent basis. The other 50 percent may be used at the discretion of the schoolsite for any one-time purposes.

(b) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues

1 Bonus program. School districts, county offices of education and charter schools
2 are required, upon request by the Superintendent of Public Instruction to certify the
3 number of its full-time equivalent employees for the period requested, upon which
4 the Superintendent shall calculate, using the funds appropriated, a statewide
5 amount per full-time equivalent employee. Upon receipt of the funds, a schoolsite
6 shall expend 50 percent of the amount received as one-time bonuses divided
7 equally among all schoolsite employees with the other 50 percent to be used at
8 the discretion of the schoolsite.

9 The California State Board of Education filed regulations pertaining to
10 award programs linked to the API at Article 1.7 of Title 5, California Code of
11 Regulations, enacted and operative December 28, 2000.

12 Section 1031[24] declared the purpose of the regulations to be the
13 implementation of programs established by three statutes relating to the API: (1)

---

appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code for the 1999-2000 fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIIB" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1999-2000 fiscal year."

[24] Title 5, California Code of Regulations, Section 1031, filed December 28, 2000, operative December 28, 2000:

"(a) The Academic Performance Index (API) measures the performance of California public schools, especially the academic performance of pupils, and demonstrates comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools pursuant to Education Code section 52052 and the Framework for The Academic Performance Index, July 1999 and The 1999 Base Year Academic Performance Index, December 15, 1999, which are incorporated herein.

(b) The purpose of these regulations is to implement the programs established by three statutes relating to the API:

1 the Governor's Performance Award Program of the Public Schools Accountability
2 Act of 1999 (Education Code Sections 52050 et seq.), (2) the Certificated Staff
3 Performance Incentive Act (Education Code Sections 44650 et seq.), and (3) the
4 Academic Performance Index Schoolsite Employees Performance Bonus (Section
5 40, Chapter 71 of the Statutes of 2000).

6 Section 1032[25] set forth definitions and defined the API as the measure of
7 accountability for all schools, except those that fall under an alternative system.

---

(1) The Governor's Performance Award Program of the Public Schools Accountability Act of 1999 (Education Code sections 52050 et seq.).
(2) The Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.)."
(3) The Academic Performance Index Schoolsite Employees Performance Bonus (Section 40, Chapter 71 of the Statutes of 2000).

[25] Title 5, California Code of Regulations, section 1032, filed December 28, 2000, operative December 28, 2000:

"(a) For purposes of this Article, "schools" shall be defined as all schools, including charter schools, that receive a ranking on the API including schools participating in the Immediate Intervention/Underperforming Schools Program. These schools are eligible to participate in all three award programs identified in Section 1031.

(b) The API shall be the measure of accountability for all schools, except those that fall under the alternative accountability system. An alternative accountability system will be developed for schools with fewer than 100 valid test scores, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools and alternative schools, including continuation high schools and independent study schools.

Once the alternative accountability system required by Education Code section 52052(g) is adopted by the State Board of Education, alternative schools may elect to be part of the API accountability system for the purposes of awards and interventions pursuant to the API. If the school elects to be part of the API accountability system, the school shall remain in the system for at least three subsequent years.

(c) For the purposes of these award programs, growth API means the second of two consecutive years for which the API is calculated. If a school does not receive an API pursuant to subdivisions (d)(1) or (d)(2), the school is ineligible for participation in any of the award programs for the current and subsequent year.

If a school does not receive an API pursuant to subdivision (d)(3), the school is ineligible for participation in any of the award programs for the current year only.

(d) A school's API shall be considered invalid under any of the following circumstances:

(1) The local educational agency has certified that there were adult testing irregularities at the school .

(2) The local educational agency has certified that the API is not representative of the pupil population at the school.

(3) The local educational agency has certified that the school has experienced a significant demographic change in pupil population between the base year and growth year, and that the API between years is not comparable.

(4) Information is made available to or obtained by the California Department of Education (department) that indicates that the integrity of the API may have been compromised. If after reviewing the information, the department determines that further investigation is warranted, the department may conduct an investigation to determine if the integrity of the API has been jeopardized.

(e) In the event that, subsequent to the calculation of an API for a school, information is made available to or obtained by the department that would lead a reasonable person to conclude that one or more of the circumstances set out in subdivision (d) occurred, the department may invalidate the school's API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.

(f) All schools that reach their growth targets or have an API of 800 and growth of at least 1 point, have comparable improvement as defined in subdivision (g), and meet the minimum participation rate in subdivision (h), shall be recognized through the Governor's Performance Award Program and the Academic Performance Index Schoolsite Employees Performance Bonus program.

(g) Comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) shall be defined as either 1) 80 percent of the school-wide API improvement goal for schools with APIs less than 800, simplified to the nearest whole number (i.e., 1.51 equals 2); or 2) the actual distance to 800. Numerically significant subgroups with APIs below 800 at schools with API scores of 800 or above shall also show a one-point gain. Numerically significant subgroups at 800 or above shall maintain a score at or above 800.

(h) For elementary and middle schools, the minimum participation rate for all three awards programs shall be 95 percent; for high schools, it shall be 90 percent for the 2000 API growth, with the intention of increasing this rate to 95 percent in the future.

(1) If the test publisher includes the pupil's answer forms or test booklets for the nationally-normed test pursuant to Education Code section 60642 for grades 2 -11 in the number of used test forms, the pupil shall be counted as a test-taker.

1 Subdivision (d) set forth conditions under which a school's API shall be considered
2 invalid and required school districts, county offices and charter schools to certify to
3 the California Department of Education if there were adult testing irregularities at
4 the school, if their API is not representative of the pupil population, if the school
5 has experienced a significant demographic change in pupil population between the
6 base year and the growth year or if the integrity of the API has been otherwise
7 compromised.

8 Section 1033[26] sets forth the eligibility requirements for the Governor's
9 Performance Award Program, Subdivision (b) requires recipients of the Academic

---

(2) No pupil shall be counted more than once as a test-taker.
(3) The participation rate shall be calculated as follows:
(A) Divide the total number of test-takers in grades 2 through 11 at the school site by
(B) The total enrollment in grades 2-11 minus the number of pupils exempted from taking the test either by their Individualized Education Program (IEP) pursuant to Education Code section 60640(e) or parental waivers pursuant to Education Code section 60615.
(4) For purposes of subdivision (3)(B) above, enrollment shall be determined by the enrollment information collected by the department as part of the Standardized Testing and Reporting Program (STAR), pursuant to Education Code sections 60640 et seq.
(5) In the case of pupil testing irregularities, the scores of affected pupils shall be eliminated from the calculations of the school's growth API, although the pupils are counted as tested and shall contribute to the school's participation rate.
(6) There shall be no rounding in determining this minimum participation rate (i.e., 94.9 percent does not equal 95 percent)."

[26] Title 5, California Code of Regulations, section 1033, filed December 28, 2000, operative December 28, 2000:

"(a) Schools that meet the eligibility requirements for the Governor's Performance Award Program (GPA) shall receive the per pupil award amount for each of their eligible pupils determined as follows:

1 Performance Index Schoolsite Employees Performance Bonus awards to divide

2 the award equally among school site individual employees on a full-time equivalent

3 basis and the school site.

4 Section 1034[27] set forth the eligibility requirements under the Certificated

5 Staff Performance Incentive Act. Subdivision (d) requires each local educational

---

(1) The school funding rate is the total number of test-takers divided by the total enrollment on the first day of testing for grades 2-11 minus the IEP exemptions

(2) There shall be no rounding in determining the school funding rate (i.e., 94.9% does not equal 95%).

(3) The kindergarten, first grade and 12th grade enrollment as established for that school year by the California Basic Education Data System (CBEDS) shall be added to the number of test-takers, less the number of pupils with testing irregularities plus the number of IEP exemptions, then multiplied by the school funding rate. This result, simplified to the nearest whole number (i.e., 1.51 equals 2) shall determine the number of eligible pupils upon which the GPA awards are based

(4)The amount allocated per pupil shall be determined on a pro-rata basis from the total amount of funding available in the annual State Budget.

(b) The Academic Performance Index Schoolsite Employees Performance Bonus awards shall be divided equally among school site individual employees on a full-time equivalent (FTE) basis and to the school site, using the same eligibility criteria as the GPA"

[27] Title 5, California Code of Regulations, section 1034, added December 28, 2000, operative December 28, 2000 (Repealed January 8, 2002):

"To be eligible to receive awards under the Certified Staff Performance Incentive Act, school sites must have attained a statewide decile rank of 1-5 in the base year of the current growth API and must meet all of the relevant statutory requirements and each of the following requirements:

(a) Each school site must have improved by a minimum of two times its annual growth target on its API between the base year and the current growth year.

(b) All numerically significant ethnic or socioeconomically disadvantaged subgroups at a school must have improved by a minimum of two times their annual growth targets, simplified to the nearest whole number (i.e., 1.51 equals 2). However, all numerically significant ethnic or socioeconomically disadvantaged subgroups with an API of 800 or above must maintain a subgroup API of 800 or above.

1 agency to complete an application on behalf of its eligible schools which shall

2 include (1) the number of eligible schools, (2) certification that the data used in the

3 API calculations is accurate, and (3) a list of certificated staff in positions on an

4 FTE basis at each of the eligible schools.

5 Section 1035[28] sets forth the rules, procedures and priorities for the

6 distribution of the Certificated Staff Performance Incentive Act .

(c) In addition to subdivisions (a) and (b) above, each school site shall have the required participation rate for the 2000 growth API as calculated by the department. For the 2000 growth API, each school must show improvement between the 1998 and 1999 testing on the nationally normed test pursuant to Education Code section 60642.

(d) The local educational agency must complete an application on behalf of their eligible schools, which shall include:

(1) The number of eligible schools.

(2) Certification that the data used in the API calculations from the schools is accurate; and

(3) A list of certificated staff in certificated positions on an FTE basis at each of the eligible schools."

[28] Title 5, California Code of Regulations, Section 1035, filed December 28, 2000, operative December 28, 2000:

"Distribution of Certificated Staff Performance Incentive Act awards pursuant to the 2000 growth API shall be as follows, with at least one thousand (1,000) $25,000 awards, three thousand seven hundred fifty (3,750) $10,000 awards and up to seven thousand five hundred (7,500) $5,000 awards being distributed in the process. The total amount of funding for this Act provided in the annual State Budget shall be distributed proportionally across each of elementary, middle, and high schools statewide by the number of certificated staff as reported in the most current CBEDS report.

(a) Schools will be declared eligible or ineligible according to the rank of schools pursuant to Education Code section 52052. An "eligible list" will be determined for each type of school (elementary, middle, and high) for the awards distribution.

(b) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual the Superintendent of Public Instruction shall apportion $25,000 per certificated school site staff FTE to be distributed to the certificated school site staff in certificated positions at that school. The number of FTE counted shall be subtracted from the awards pool of 1,000 FTE positions.

(c) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion $25,000 per certificated school site staff FTE to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(d) This process shall continue until all 1,000 $25,000/FTE awards have been allocated to the eligible school sites. If, before all 1,000 awards have been allocated, an eligible school site has more eligible FTE than remain in the 1,000 FTE awards pool, all of that school site's FTE shall receive $25,000 awards. If more than one school site has an identical score in this circumstance, all eligible FTE at each of the school site(s) shall receive $25,000 awards.

(e) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target that did not receive $25,000 rewards, the Superintendent of Public Instruction shall apportion $10,000 per certificated school site staff FTE to be distributed to the certificated school site staff at that school. The number of FTE counted shall be subtracted from the awards pool of 3,750 $10,000 awards.

(f) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion $10,000 per certificated school site staff FTE to be distributed to the certificated school site staff at that school. The number of FTE counted shall be subtracted from the awards pool remainder.

(g) This process shall continue in consecutive order until all 3,750 $10,000/FTE awards have been allocated to the school sites. If, before all 3,750 awards have been allocated, an eligible school site has more eligible FTE than remain in the 3,750 FTE pool, all of that school site's FTE shall receive $10,000 awards. If more than one school site has an identical score in this circumstance, all eligible FTE at the school site(s) shall receive $10,000 awards.

(i) The sum of the awards distributed under subdivisions (b) through (g) shall be subtracted from $100 million, and the remainder shall be divided by $5,000 to determine the maximum number of $5,000 awards to be distributed. The $5,000 awards shall be distributed in the same manner as the $25,000 and the $10,000 awards, with the exception that the distribution process will end when the pool of available $5,000 awards is not sufficient to fully fund the eligible FTE of the next school or schools in line for the awards."

1 Section 1036[29] requires the Academic Performance Index Schoolsite
2 Employees Performance Bonus to be allocated to individuals and the schoolsite
3 and provides the definitions of persons who shall receive the awards.
4 Section 1037[30] requires that the Academic Performance Index Schoolsite
5 Employees Performance Bonus awards and the Certificated Staff Performance
6 Incentive Act awards shall not be considered compensation for the purpose of
7 calculating retirement benefits or contributions, or for any other benefit or
8 contribution amount calculated based on compensation.

---

[29] Title 5, California Code of Regulations, Section 1036, filed December 28, 2000, operative December 28, 2000:

"(a) The Academic Performance Index Schoolsite Employees Performance Bonus shall be allocated to individuals and the school site. Funds will be distributed to the school site for those individuals who worked at the school site for the school year for which the growth API was calculated. These bonuses shall be distributed on an FTE basis to all employees assigned to the school site. Staff who were employed at a school site part-time or for less than the full school year shall have their awards pro-rated on an FTE basis, as determined by the local educational agency contract.

(b) For the purpose of the Certificated Staff Performance Incentive Act awards, "certificated staff" include those certificated staff employed at the school site in certificated positions for the school year and certificated staff that were employed at the school site part-time or for less than the full school year for which the growth API was calculated. Except as otherwise provided through bargaining unit negotiations pursuant to Education Code section 44653, certificated staff employed at a school site part-time or for less than the full school year shall have their award allocations pro-rated on an FTE basis."

[30] Title 5, California Code of Regulations, Section 1037, filed December 28, 2000, operative December 28, 2000:

"Academic Performance Index Schoolsite Employee Performance Bonus awards and Certificated Staff Performance Incentive Act awards shall not be considered compensation for the purposes of calculating retirement benefits or contributions, or for any other benefit that an employee is eligible to receive where the benefit or contribution amount is calculated based on compensation."

1 Section 1038[31] requires the use of funds at the school site for the
2 Governor's Performance Award Program and the school site portion of the
3 Academic Performance Index Schoolsite Employees Performance Bonus awards
4 to be decided by the existing school site governance team/school site council and
5 then ratified by the governing board of each local educational agency.
6 Chapter 190, Statutes of 2000, Section 1 amended Education Code Section
7 52054[32] to make changes in performance dates and to add a new subdivision (g)

---

[31] Title 5, California Code of Regulations, Section 1038, filed December 28, 2000, operative December 28, 2000:

"Use of funds at the school site for the Governor's Performance Award Program and the school site portion of the Academic Performance Index Schoolsite Employees Performance Bonus awards shall be decided by the existing school site governance team/school site council representing major stakeholders and then ratified by the governing board of each local educational agency."

[32] Education Code Section 52054, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999, as amended by Chapter 190, Statutes of 2000, Section 1:

"(a) By ~~October 1~~ November 15 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program shall contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

(b) By ~~November 15~~ December 15 of the year that the school is selected to participate, the selected external evaluator shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator shall do all of the following:

(1) Inform the parents and legal guardians, in writing, that the school has been selected to participate in the Immediate Intervention/Underperforming Schools Program due to its below-average performance.

(2) Hold a public meeting at the school, in cooperation with the

principal, to which all parents and legal guardians of pupils in the school receive a written invitation. The invitation to the meeting may be combined with the written notice required by paragraph (1).

(3) Solicit, at the public meeting, the recommendations and opinions of the participating parents and legal guardians of pupils in the school regarding actions that should be taken to improve the performance of the school. These opinions and recommendations shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section.

(4) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By ~~December~~ January 15 of the year that the school is selected to participate, the selected external evaluator shall complete a review of the school that identifies weaknesses that contribute to the school's below average performance and makes recommendations for improvement.

(d) By ~~March~~ April 15 of the year that follows the year the school is selected to participate, the external evaluator and the schoolsite and community team selected pursuant to subdivision (a) shall develop an action plan to improve the academic achievement of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the State Board of Education pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a scope that requires reimbursement by the Commission on State Mandates for its implementation.

(e) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

(2) Identify the current barriers at the school and district toward improvements in pupil achievement.

(3) Identify schoolwide and districtwide strategies to remove these barriers.

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding

the achievement of English learners, economically disadvantaged pupils, and other groups of pupils, by race, ethnicity, and gender.

(6) Set short-term academic objectives pursuant to Section 52052 for a two-year period that will allow the school to make adequate progress toward the growth targets established for each participating school for pupil achievement as measured by all of the following to the extent that the data is available for the school:

(A) The achievement test administered pursuant to Section 60640.

(B) Graduation rates for grades 7 to 12, inclusive.

(C) Attendance rates for pupils and school personnel for elementary, middle, and secondary schools.

(D) Any other indicators approved by the State Board of Education.

(f) The school action plan shall focus on improving pupil academic performance, improving the involvement of parents and guardians, improving the effective and efficient allocation of resources and management of the school, and identifying and developing solutions that take into account the underlying causes for low performance by pupils.

(g) The school action plan may propose to increase the number of instructional days offered at the schoolsite and also may propose to increase up to a full 12 months the amount of time for which certificated employees are contracted, if all of the following conditions are met:

(1) Provisions of the plan proposed pursuant to this subdivision shall not violate current applicable collective bargaining agreements.

(2) An agreement is reached with the exclusive representative concerning staffing specifically to accommodate the extended school year or 12-month contract.

(~~g~~h) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(~~h~~i) Upon its completion, the action plan shall be submitted to the governing board of the school districts for its approval. After the plan is approved, but no later than ~~April~~ May 15 of the year that follows the year the school is selected to participate, the plan shall be submitted to the Superintendent of Public Instruction with a request for funding in the form prescribed by the Superintendent of Public Instruction.

(~~i~~j) Not later than ~~May~~ June 15 of the year next following the year in which a school is selected for participation, the State Board of Education shall review and approve or disapprove the school's request for funding, based on the recommendation of the Superintendent of Public Instruction. In conjunction with its approval of a request for funding to implement a school's action plan, the State Board of Education may waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 if the waiver does not result in a decrease

1 which allows the school action plan to propose an increase in the number of
2 instructional days offered at the schoolsite and to increase the amount of time for
3 which certificated employees are contracted to 12 months. New subdivision (h)
4 requires the team, in the development of the action plan, to consult with the
5 exclusive representatives of employee organizations, where they exist.
6 Chapter 695, Statutes of 2000 amended Education Code Sections 52052-
7 52058. Chapter 695/00, Section 1 amended Section 52052[33] to make technical
8 changes.

---

in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300."

[33] Education Code Section 52052 as amended by Chapter 695, Statutes of 2000, Section 1:

"(a) (1) By July 1, 1999, the Superintendent of Public Instruction, with approval of the State Board of Education, shall develop an Academic Performance Index (API), to measure the performance of schools, especially the academic performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools.

(2) For purposes of this section, a numerically significant ethnic or socioeconomically disadvantaged subgroup is a subgroup that constitutes at least 15 percent of a school's total pupil population and consists of at least 30 pupils. An ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at a school.

(3) The API shall consist of a variety of indicators currently reported to the State Department of Education including, but not limited to, the results of the achievement test administered pursuant to Section 60640, attendance rates for pupils and certificated school personnel for elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools.

(A) The pupil data collected for the API that comes from the achievement test administered pursuant to Sections 60640 and 60644 and the high school exit examination administered pursuant to Section 60851, when fully implemented, shall be disaggregated by special education status, English language learners, socioeconomic

status, gender and ethnic group. Only the test scores of pupils who were enrolled in a school district in the prior fiscal year may be included in the test results reported in the API. Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index.

(B) Before including high school graduation rates and attendance rates in the index, the Superintendent of Public Instruction shall determine the extent to which the data is currently reported to the state and the accuracy of the data.

(C) If the Superintendent of Public Instruction determines that accurate data for these indicators is not available, the Superintendent of Public Instruction shall report to the Governor and the Legislature by September 1, 1999, and recommend necessary action to implement an accurate reporting system.

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The assessment of the applied academic skills matrix test developed pursuant to Section 60604.

(2) The nationally normed test as augmented pursuant to paragraph (1) of subdivision (f) of Section 60644.

(3) The high school exit examination.

(c) Based on the API, the Superintendent of Public Instruction shall develop, and the State Board of Education shall adopt, expected annual percentage growth targets for all schools based on their API baseline score as measured in July 1999. Schools are expected to meet these growth targets through effective allocation of available resources. For schools below the statewide API performance target adopted by the State Board of Education pursuant to subdivision (d), the minimum annual percentage growth target shall be 5 percent of the difference between a school's actual API score and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target shall have, as their growth target, maintenance of their API score above the statewide API performance target. However, the State Board of Education may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement. To meet its growth target, a school shall demonstrate that the annual growth in its API is equal to or more than its schoolwide annual percentage growth target and that all numerically-significant ethnic and socioeconomically disadvantaged subgroups, as defined in subdivision (a) of Section 52052, are making comparable improvement.

(d) Upon adoption of state performance standards by the State Board of Education, the Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target. When fully developed,

1 Chapter 695/00, Section 2 amended Education Code Section 52053[34] to

2 add subdivisions (h), (i), (j), (k) and (l) and to renumber former subdivisions (h) as

---

schools may either meet the state target or meet their growth targets to be eligible for the Governor's Performance Award Program as set forth in Section 52057.

(e) Beginning in June 2000, the API shall be used for both of the following:

(1) Measuring the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Ranking all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

(f) Only comprehensive high schools, middle schools, and elementary schools that have a population of 100 or more pupils may be included in the API ranking.

(g) By July 1, 2000, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall develop an alternative accountability system for schools with fewer than 100 pupils, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools."

[34] Education Code Section 52053, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999, as amended by Chapter 695, Statutes of 2000, Section 2:

"(a) The Immediate Intervention/Underperforming Schools Program is hereby established. By August 15, 1999, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall invite schools that scored below the 50th percentile on the achievement tests administered pursuant to Section 60640 both in the spring of 1998 and in the spring of 1999 to participate in the Immediate Intervention/Underperforming Schools Program. A school invited to participate may take any action not otherwise prohibited under state or federal law and that would not require reimbursement by the Commission on State Mandates to improve pupil performance.

(b) The total number of schools participating in the program in 1999 shall be 430. Unless subdivision (d) applies, schools that apply will be selected based on the order in which they apply within ranks of deciles, not to exceed 86 per decile, within the following grade level categories:

(1) No more than 301 elementary schools.

(2) No more than 78 middle schools.

(3) No more than 52 high schools.

(c) The 86 schools selected within each decile range pursuant to subdivision (b) shall proportionately represent elementary, middle, and high schools and shall provide statewide proportionate geographic representation of urban and rural schools.

(d) If fewer than the number of schools in any grade level category apply, schools that scored below the 50th percentile in those grade level categories that did not apply for the program shall randomly be selected by the Superintendent of Public Instruction, with the approval of the State Board of Education, to participate based on their proportional representation in the state until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(e) If more than the requisite number of schools apply for any grade level category, the Superintendent of Public Instruction shall select an array of schools that reflect a broad range of academic performance of schools that scored below the 50th percentile, until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(f) A school selected to participate on or before September 1, 1999, shall be awarded a planning grant from funds appropriated pursuant to paragraph (1) of subdivision (a) of Section 2 of the act adding this section in the amount of fifty thousand dollars ($50,000). A school selected to receive federal funds pursuant to paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall be awarded an implementation grant in an amount of at least fifty thousand dollars ($50,000) pursuant to Public Law 105-78.

(g) Schools receiving funding under paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall comply with Public Law 105-78.

(h) By September 15, 2000, and each year thereafter, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall identify schools that failed to meet their Academic Performance Index (API) growth targets and that have an API below the 50th percentile relative to all other public elementary, middle or high schools. The Superintendent of Public Instruction shall invite these schools to participate in the Immediate Intervention/Underperforming Schools Programs. A school invited to participate may take any action to improve pupil performance not otherwise prohibited under state or federal law and that would not require reimbursement by the Commission on State Mandates.

(i) The total number of schools selected for participation in the program shall be no more than the number that can be funded through the total appropriation for the planning grants referenced in subdivision (l) below.

(j) If fewer schools apply for participation than can be funded, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall randomly select the balance of schools from schools eligible to participate that did not apply. Insofar as possible, the schools randomly selected should reflect a representative proportion of elementary, middle and high schools, as well as a broad range of academic achievement.

(k) If more schools apply for participation than can be funded, the schools shall be selected on the order in which they apply. Insofar as possible, the schools randomly selected should reflect a representative proportion of elementary, middle and high schools, as well as a broad range of academic achievement.

(l) A school selected to participate on or before October 15, 2000, and each year thereafter, shall be awarded a planning grant from funds appropriated pursuant to this act of fifty thousand dollars ($50,000).

1 subdivision (m). Subdivision (h) requires, by September 15, 2000 and each year
2 thereafter, the Superintendent of Public Instruction, with the approval of the State
3 Board of Education, to identify schools that failed to meet their API growth targets
4 and have an API below the 50th percentile relative to other schools. The
5 Superintendent of Public Instruction shall invite those schools to participate in the
6 Immediate Intervention/Underperforming School Program. Subdivision (i) limits
7 the number of schools selected based upon the amount of funding available.
8 Subdivision (j) provides that if fewer schools apply than can be funded, the
9 Superintendent of Public Instruction, with the approval of the State Board of
10 Education, to randomly select the balance of the schools from those schools that
11 did not apply. Subdivision (k) provides that if more schools apply for participation
12 than can be funded, they shall be selected in the order in which they apply.
13 Subdivision (l) provides that a school selected to participate on or before October
14 15, 2000, and each year thereafter, shall be awarded a planning grant of $50,000.
15 Chapter 695/00, Section 2.5, amended Education Code Section 52052.3 to
16 make a technical change.
17 Chapter 695/00, Section 3, amended Education Code Section 52054[35] to
18 make technical changes, required the external evaluator to complete his review to

---

(~~h~~m) Schools selected for participation in the program shall be notified by the Superintendent of Public Instruction no later than ~~September 1~~ October 15 of each year."

[35] Education Code Section 52054, as amended by Chapter 695, Statutes of 2000:
"(a) By ~~October 1~~ November 15 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program shall contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of non-schoolsite

personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

(b) The selected external evaluator shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator shall do all of the following:

(1) Inform the parents and legal guardians, in writing, that the school has been selected to participate in the Immediate Intervention/Underperforming Schools Program due to its below average performance.

(2) Hold a public meeting at the school, in cooperation with the principal, to which all parents and legal guardians of pupils in the school receive a written invitation. The invitation to the meeting may be combined with the written notice required by paragraph (1).

(3) Solicit, at the public meeting, the recommendations and opinions of the participating parents and legal guardians of pupils in the school regarding actions that should be taken to improve the performance of the school. These opinions and recommendations shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section.

(4) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By February 15 of the school year ~~that~~ in which the school is selected to participate, the selected external evaluator, in collaboration with the broad-based schoolsite and community team selected pursuant to subdivision (a), shall complete a review of the school that identifies weaknesses that contribute to the school's below average performance ~~and~~, make recommendations for improvement ~~By March 15 of the year that follows the year the school is selected to participate, the external evaluator and the schoolsite and community team selected pursuant to subdivision (a) shall~~, and begin to develop an action plan to improve the academic ~~achievement~~ performance of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the State Board of Education pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a scope that requires reimbursement by the Commission on State Mandates for its implementation.

(d) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

(2) Identify the current barriers at the school and district toward improvements in pupil achievement.

(3) Identify schoolwide and districtwide strategies to remove these barriers.

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding the achievement of English language learners, ~~economically disadvantaged~~ pupils ~~and other groups of~~ with exceptional needs, pupils who qualify for free and reduced price meals, and all pupils, by race, ethnicity, and gender.

(6) Set short-term academic objectives pursuant to Section 52052 for a two-year period that will allow the school to make adequate progress toward the growth targets established for each participating school for pupil achievement as measured by all of the following to the extent that the data is available for the school:

(A) The achievement test administered pursuant to Section 60640.

(B) Graduation rates for grades 7 to 12, inclusive.

(C) Attendance rates for pupils and school personnel for elementary, middle, and secondary schools.

(D) Any other indicators approved by the State Board of Education.

(fe) The school action plan shall focus on improving pupil academic performance, improving the involvement of parents and guardians, improving the effective and efficient allocation of resources and management of the school, and identifying and developing solutions that take into account the underlying causes for low performance by pupils.

(f) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(g) The school action plan may propose to increase the number of instructional days offered at the schoolsite and also may propose to increase up to a full 12 months the amount of time for which certificated employees are contracted, if all of the following conditions are met:

(1) Provisions of the plan proposed pursuant to this subdivision shall not violate current applicable collective bargaining agreements.

(2) An agreement is reached with the exclusive representative concerning staffing specifically to accommodate the extended school year or 12-month contract.

(h) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

1 identify weaknesses in collaboration with the broad-based schoolsite and
2 community team and no longer required the external evaluator to develop an
3 action plan with the team.

4 Chapter 695/00, Section 4, amended Education Code Section 52054.5[36] to
5 make funding subject to the appropriation of funds for this purpose in the Budget
6 Act.

(i) Upon its completion, the action plan shall be submitted to the governing board of the school districts for its approval. After the plan is approved, but no later than May 15 of the year that follows the year the school is selected to participate, the plan shall be submitted to the Superintendent of Public Instruction with a request for funding in the form prescribed by the Superintendent of Public Instruction, who shall review the school action plan and recommend approval or disapproval of the school's request for funding to the State Board of Education.

(j) Not later than July 15 of the year next following the year in which a school is selected for participation, the State Board of Education shall review and approve or disapprove the school's request for funding, based on the recommendation of the Superintendent of Public Instruction. Within thirty days of the State Board of Education's review, the State Superintendent of Public Instruction shall notify the effected school districts of the state of the board' s action regarding the request for funding. In conjunction with its approval of a request for funding to implement a school's action plan, the State Board of Education may, at the request of the governing board of the school district or the county board of education for a school under its jurisdiction, waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300."

[36] Education Code Section 52054.5, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999, as amended by Chapter 695, Statutes of 2000, Section 4:

"~~A school whose application is approved on or before June 15 of the year following the year in which a school is selected for funding.~~ Subject to the appropriation of funds for this purpose in the Budget Act, a school whose application is approved shall receive a grant for implementing the program, in each subsequent fiscal year that it participates in the program, in an amount up to two hundred dollars ($200)

1 Chapter 695/00, Section 5, amended Education Code Section 52055[37] to

2 make technical corrections.

3 Chapter 695/00, Section 6, amended Education Code Section 52055.5[38] to

4 make technical corrections and to amend subdivision (b) to provide that a school is

5 no longer eligible to received funding thirty-six months after receipt of funds.

---

per pupil enrolled in the school, with a minimum allocation of fifty thousand dollars ($50,000) per schoolsite. ~~A school that applies after June 15 may receive a grant for implementing the program if funds are appropriated for this purpose in the Budget Act.~~ As a condition of receiving this funding, a participating school or the school district having jurisdiction over that school shall match the amount of state funding from any new or existing sources of funding. To help meet this matching requirement, a participating school and the governing board of the school district having jurisdiction over that school shall receive maximum flexibility in the expenditure of any new or existing categorical funds not otherwise prohibited by state or federal law and shall redirect for the purposes of their academic improvement plan new or existing categorical or general purpose funds."

[37] Education Code Section 52055., added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999, as amended by Chapter 695, Statutes of 2000, Section 5:

"The governing board of a school that fails to meet its annual short-term growth target within 12 months following receipt of funding pursuant to Section 52054.5 shall hold a public hearing at a regularly scheduled meeting to ensure that members of the school community are aware of the lack of progress. The governing board of the school district shall, upon consultation with the external evaluator and the schoolsite and community team selected pursuant to Section 52054, choose from a range of interventions for the school, including reassignment of school personnel to the extent authorized by law, negotiation of site-specific amendments to collective bargaining agreements, or other changes deemed appropriate, in order to continue implementing the action plan approved pursuant to Section 51054, and to make progress toward meeting the school's growth ~~targets~~ target."

[38] Education Code Section 52055.5, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999, as amended by Chapter 695, Statutes of 2000, Section 6:

"(a) ~~Following 24~~ Twenty-four months after receipt of funding pursuant to Section 52054.5, a school that ~~meets~~ has met or exceeded its growth target each year shall receive a monetary or nonmonetary award, under the Governor's

Performance Award Program, as set forth in Section 52057. Funds received ~~from this program shall~~ pursuant to that section may be used at the school's discretion.

(b) ~~Following 24~~ Twenty-four months after receipt of funding pursuant to Section 52054.5, a school that has not met its ~~performance goals~~ growth targets each year, but demonstrates significant growth, as determined by the State Board of Education, shall continue to participate in the program for an additional year and to receive funding in the amount specified in Section 52054.5. Thirty-six months after receipt of funds pursuant to Section 52054.5, a school is no longer eligible to receive funding pursuant to that section.

(c) A school that does not meet its ~~performance goals~~ growth targets within ~~24 months after receipt of funding pursuant to Section 52054.5~~ the periods described in either subdivision (a) or (b), as applicable, and has failed to show significant growth, as determined by the State Board of Education, shall be deemed a low-performing school. Notwithstanding any other provision of law, the Superintendent of Public Instruction shall assume all the legal rights, duties, and powers of the governing board with respect to that school. The Superintendent of Public Instruction, in consultation with the State Board of Education and the governing board of the school district, shall reassign the principal of that school subject to the findings in subdivision (e). In addition to reassigning the principal, the Superintendent of Public Instruction, in consultation with the State Board of Education, shall, notwithstanding any other provision of law, do at least one of the following:

(1) Revise attendance options for pupils to allow them to attend any public school in which space is available. If additional attendance options are made available, nothing in this option shall be construed to require either the sending or receiving school district to incur additional transportation costs.

(2) Allow parents to apply directly to the State Board of Education for the establishment of a charter school and allow parents to establish the charter school at the existing schoolsite.

(3) Under the supervision of the Superintendent of Public Instruction, assign the management of the school to a college, university, county office of education, or other appropriate educational institution. However, the Superintendent of Public Instruction may not assume the management of the school.

(4) Reassign other certificated employees of the school.

(5) Renegotiate a new collective bargaining agreement at the expiration of the existing collective bargaining agreement.

(6) Reorganize the school.

(7) Close the school.

(d) In addition to the actions listed in subdivision (c), the Superintendent of Public Instruction, in consultation with the State Board of Education, may take any other action considered necessary or desirable against the school district or the school district governing board, including appointment of a new superintendent or

1 The Title 5 California Code of Regulations cited above were amended on

2 January 30, 2001 and operative that date. Section 1032[39] was amended to add

---

suspension of the authority of the governing board with respect to the school or schools identified pursuant to subdivision (c).

(e) Before the Superintendent of Public Instruction may take any action against a principal pursuant to subdivision (c), the Superintendent of Public Instruction or a designee of the superintendent shall hold a public hearing on the matter in the school district and make both of the following findings:

(1) A finding that the principal had the authority to take specific enumerated actions that would have helped the school meet its performance goals.

(2) A finding that the principal failed to take specific enumerated actions pursuant to paragraph (1).

(f) An action taken pursuant to subdivision (c), (d), or (e) shall not increase local costs or require reimbursement by the Commission on State Mandates.

(g) An action taken pursuant to subdivision (c), (d), or (e) shall be accompanied by specific findings by the Superintendent of Public Instruction and the State Board of Education that the action is directly related to the identified causes for continued failure by a school to meet its performance goals."

[39] Title 5, California Code of Regulations, section 1032, filed December 28, 2000, operative December 28, 2000, as amended January 30, 2001, operative January 30, 2001:

"(a) For purposes of this Article, "schools" shall be defined as all schools, including charter schools, that receive a ranking on the API including schools participating in the Immediate Intervention/Underperforming Schools Program. These schools are eligible to participate in all three award programs identified in Section 1031.

(b) The API shall be the measure of accountability for all schools, except those that fall under the alternative accountability system. An alternative accountability system will be developed for schools with fewer than 100 valid test scores, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools and alternative schools, including continuation high schools and independent study schools.

Once the alternative accountability system required by Education Code section 52052(g) is adopted by the State Board of Education, alternative schools may elect to be part of the API accountability system for the purposes of awards and interventions pursuant to the API. If the school elects to be part of the API accountability system, the school shall remain in the system for at least three subsequent years.

(c) For the purposes of these award programs, growth API means the second of two consecutive years for which the API is calculated. If a school does not receive an API pursuant to subdivisions (d)(1) or (d)(2), the school is ineligible

for participation in any of the award programs for the current and subsequent year. If a school does not receive an API pursuant to subdivision (d)(3), the school is ineligible for participation in any of the award programs for the current year only.

(d) A school's API shall be considered invalid under any of the following circumstances:

(1) The local educational agency has certified that there were adult testing irregularities at the school .

(2) The local educational agency has certified that the API is not representative of the pupil population at the school.

(3) The local educational agency has certified that the school has experienced a significant demographic change in pupil population between the base year and growth year, and that the API between years is not comparable.

(4) The school's proportion of parental waivers compared to its Standardized Testing and Reporting Program (STAR) enrollment, pursuant to Education Code section 60640 et seq., is equal to or greater than 15 percent. There shall be no rounding in determining this minimum parental waiver proportion (i.e., 14.99 percent is not 15 percent).

~~(4)~~(5) Information is made available to or obtained by the California Department of Education (department) that indicates that the integrity of the API may have been compromised. If after reviewing the information, the department determines that further investigation is warranted, the department may conduct an investigation to determine if the integrity of the API has been jeopardized.

(e) In the event that, subsequent to the calculation of an API for a school, information is made available to or obtained by the department that would lead a reasonable person to conclude that one or more of the circumstances set out in subdivision (d) occurred, the department may invalidate the school's API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.

(f) All schools that reach their growth targets or have an API of 800 and growth of at least 1 point, have comparable improvement as defined in subdivision (g), and meet the minimum participation rate in subdivision (h), shall be recognized through the Governor's Performance Award Program and the Academic Performance Index Schoolsite Employees Performance Bonus program.

(g) Comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) shall be defined as either 1) 80 percent of the school-wide API improvement goal for schools with APIs less than 800, simplified to the nearest whole number (i.e., 1.51 equals 2); or 2) the actual distance to 800. Numerically significant subgroups with APIs below 800 at schools with API scores of 800 or above shall also show a one-point gain. Numerically significant subgroups at 800 or above shall maintain a score at or above 800.

(h) For elementary and middle schools, the minimum participation rate for all three awards programs shall be 95 percent; for high schools, it shall be 90

1 Subparagraph (4) to subdivision (d) add the notification of parental waivers

2 compared to STAR enrollment as an additional invalidating factor.

3 Section 1033[40], subdivision (b) was amended to require school districts,

4 county offices of education and charter schools, as a condition of participation in

---

percent for the 2000 API growth, with the intention of increasing this rate to 95 percent in the future.

(1) If the test publisher includes the pupil's answer forms or test booklets for the nationally-normed test pursuant to Education Code section 60642 for grades 2 -11 in the number of used test forms, the pupil shall be counted as a test-taker.

(2) No pupil shall be counted more than once as a test-taker.

(3) The participation rate shall be calculated as follows:

(A) Divide the total number of test-takers in grades 2 through 11 at the school site by

(B) The total enrollment in grades 2-11 minus the number of pupils exempted from taking the test either by their Individualized Education Program (IEP) pursuant to Education Code section 60640(e) or parental waivers pursuant to Education Code section 60615.

(4) For purposes of subdivision (3)(B) above, enrollment shall be determined by the enrollment information collected by the department as part of the Standardized Testing and Reporting Program (STAR), pursuant to Education Code sections 60640 et seq.

(5) In the case of pupil testing irregularities, the scores of affected pupils shall be eliminated from the calculations of the school's growth API, although the pupils are counted as tested and shall contribute to the school's participation rate.

(6) There shall be no rounding in determining this minimum participation rate (i.e., 94.9 percent does not equal 95 percent)."

[40] Title 5, California Code of Regulations, section 1033, filed December 28, 2000, operative December 28, 2000, as amended January 30, 2001:

"(a) Schools that meet the eligibility requirements for the Governor's Performance Award Program (GPA) shall receive the per pupil award amount for each of their eligible pupils determined as follows:

(1) The school funding rate is the total number of test-takers divided by the total enrollment on the first day of testing for grades 2-11 minus the IEP exemptions

(2) There shall be no rounding in determining the school funding rate (i.e., 94.9% does not equal 95%).

(3) The kindergarten, first grade and 12th grade enrollment as established for that school year by the California Basic Education Data System (CBEDS) shall be added to ~~the number of test-takers~~ the total enrollment on the first day of testing for grades 2-11, less the number of pupils with testing irregularities ~~plus the number of IEP exemptions~~, then multiplied by the school funding rate. This result, simplified to the nearest whole number (i.e., 1.51 equals 2) shall determine the number of eligible pupils upon which the GPA awards are based

(4)The amount allocated per pupil shall be determined on a pro-rata basis from the total amount of funding available in the annual State Budget.

(b) To participate in t~~T~~he Academic Performance Index Schoolsite Employees Performance Bonus awards ~~shall be divided equally among school site individual employees on a full time equivalent (FTE) basis and to the school site, using the same eligibility criteria as the GPA~~ school districts, county offices of education and charter schools shall certify the number of full-time equivalent (FTE) employees employed as of the second principal apportionment of the 1999-2000 school year at each school site under their jurisdiction that are eligible for awards in accordance with Education Code section 52057(a).

(1) The "number of full-time equivalent employees (FTE) employed as of the second principal apportionment" shall be defined as the number of funded FTE positions at the school site as of June 23, 2000.

(2) "Employees at each school site" shall be defined as positions filled by individuals employed by the school district, county office of education, or charter school at least 50 percent of the school year in which the award was earned, and who spent at least 50 percent of his/her total annual work hours at school sites, and who spent at least 20 percent of his/her total annual work hours at the eligible school site.

(3) "Full time equivalent (FTE) position" shall be defined as a position filled by a person that is required to work a minimum of a six hour work day. School districts, county offices of education, and charter schools may choose to use a longer work day in accordance with their local collective bargaining agreements. One person cannot generate more than one FTE position. Part-time positions shall generate a partial FTE on a proportional basis.

(4) The certification shall indicate the number of certificated and classified FTE positions at each school site. The number of certificated employees reported by the school districts, county offices of education, and charter schools shall also be used for purposes of making awards under the Certificated Staff Performance Incentive Act.

(A) "Classified employee" shall be defined as an employee not requiring certification and who meets the school site employee criteria specified in subdivision (b)(2).

(B) "Certficated employee" shall be defined as an employee in

1 the Academic Performance Index Schoolsite Employees Performance Bonus
2 program, to certify the number of full-time equivalent (FTE) employees employed
3 as of the second principal apportionment of the 1999-2000 school year at each
4 school site under their jurisdiction that are eligible for awards.
5 Section 1035[41] was amended to make technical changes in the process for
6 distributing awards.

---

a position requiring certification and who holds a document issued by the California Commission on Teacher Credentialing authorizing service in the public schools of California.

(C) "Document" shall be defined as a credential, emergency permit, or waiver issued by the California Commission on Teacher Credentialing.

(5) For purposes of this subdivision, the deadline for submitting the certification of FTE to the department shall be November 1, 2000 or as soon thereafter as the eligible schools are identified and no later than February 1, 2001. If certification is not received by the department by February 1, 2001, those schools will not receive either the Certificated Staff Performance Incentive Act award or the Academic Performance Index Schoolsite Employees Performance Bonus award."

[41] Title 5, California Code of Regulations, Section 1035, filed December 28, 2000, operative December 28, 2000, as amended January 30, 2001:

"Distribution of Certificated Staff Performance Incentive Act awards pursuant to the 2000 growth API shall be as follows, with at least one thousand (1,000) $25,000 awards, three thousand seven hundred fifty (3,750) $10,000 awards and up to seven thousand five hundred (7,500) $5,000 awards being distributed in the process. The total amount of funding for this Act provided in the annual State Budget shall be distributed proportionally across each of elementary, middle, and high schools statewide by the number of certificated staff as reported in the most current CBEDS report.

(a) Schools will be declared eligible or ineligible according to the rank of schools pursuant to Education Code section 52052. An "eligible list" will be determined for each type of school (elementary, middle, and high) for the awards distribution.

(b) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual the Superintendent of Public Instruction shall apportion $25,000 per certificated school site staff FTE to be distributed to the certificated school site staff in certificated positions at that

school. The number of FTE counted shall be subtracted from the awards pool of 1,000 FTE positions.

(c) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion $25,000 per certificated school site staff FTE to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(d) This process shall continue until all 1,000 $25,000/FTE awards have been allocated to the eligible school sites. If, before all 1,000 awards have been allocated, an eligible school site has more eligible FTE than remain in the 1,000 FTE awards pool, all of that school site's FTE shall receive $25,000 awards. If more than one school site has an identical score in this circumstance, ~~all eligible FTE at each of the school site(s)~~ the school with the greatest improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642 shall receive $25,000 awards.

(e) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target that did not receive $25,000 rewards, the Superintendent of Public Instruction shall apportion $10,000 per certificated school site staff FTE to be distributed to the certificated school site staff at that school. The number of FTE counted shall be subtracted from the awards pool of 3,750 $10,000 awards.

(f) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion $10,000 per certificated school site staff FTE to be distributed to the certificated school site staff at that school. The number of FTE counted shall be subtracted from the awards pool remainder.

(g) This process shall continue in consecutive order until all 3,750 $10,000/FTE awards have been allocated to the school sites. If, before all 3,750 awards have been allocated, an eligible school site has more eligible FTE than remain in the 3,750 FTE pool, all of that school site's FTE shall receive $10,000 awards. If more than one school site has an identical score in this circumstance, ~~all eligible FTE at the school site(s)~~ the school with the greatest improvement between the 1998 and 1999 testing on the nationally-normed test pursuant to Education Code section 60642 shall receive $10,000 awards.

(h) The sum of the awards distributed under subdivisions (b) through (g) shall be subtracted from $100 million, and the remainder shall be divided by $5,000 to determine the maximum number of $5,000 awards to be distributed. The $5,000 awards shall be distributed in the same manner as the $25,000 and the $10,000 awards, with the exception that the distribution process will end when the pool of available $5,000 awards is not sufficient to fully fund the eligible FTE of the next school or schools in line for the awards."

1 Section 1038[42] was added (after renumbering former section 1038 as new
2 section 1039) to require that Governor's Performance Awards, Academic
3 Performance Index Schoolsite Employees Performance Bonus awards and
4 Certificated Staff Performance Incentive Act awards shall not be subject to school
5 district, county, or school indirect charges or other administrative charges.
6 Section 1039[43] was added as former section 1038 was renumbered
7 Section 1039.
8 The Title 5 California Code of Regulations cited above were amended again
9 on June 11, 2001 and operative that date. Section 1031[44] was amended to insert
10 "Article 1.7" for "these regulations".

---

[42] Title 5, California Code of Regulations, Section 1038, filed January 30, 2001, operative January 30, 2001 (former section 1038 renumbered as new section 1039):

"Governor's Performance Awards, Academic Performance Index Schoolsite Employees Performance Bonus awards, and Certificated Staff Performance Incentive Act awards shall not be subject to school district, county, or school indirect charges or other administrative charges."

[43] Title 5, California Code of Regulations, Section 1039, originally filed December 28, 2000 as Section 1038, renumbered and filed January 30, 2001, operative January 30, 2001:

"Use of funds at the school site for the Governor's Performance Award Program and the school site portion of the Academic Performance Index Schoolsite Employees Performance Bonus awards shall be decided by the existing school site governance team/school site council representing major stakeholders and then ratified by the governing board of each local educational agency."

[44] Title 5, California Code of Regulations, Section 1031, filed December 28, 2000, operative December 28, 2000, as amended June 11, 2001

"(a) The Academic Performance Index (API) measures the performance of California public schools, especially the academic performance of pupils, and demonstrates comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups

1 Section 1032[45] was amended to add subparagraph (5) to subdivision (d) to

2 add a catch-all circumstance which would invalidate an API.

---

within schools pursuant to Education Code section 52052 and the Framework for The Academic Performance Index, July 1999 and The 1999 Base Year Academic Performance Index, December 15, 1999, which are incorporated herein.

(b) The purpose of ~~these regulations~~ Article 1.7 is to implement the programs established by three statutes relating to the API:

(1) The Governor's Performance Award Program of the Public Schools Accountability Act of 1999 (Education Code sections 52050 et seq.).

(2) The Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.).

(3) The Academic Performance Index Schoolsite Employees Performance Bonus (Section 40, Chapter 71 of the Statutes of 2000)."

[45] Title 5, California Code of Regulations, section 1032, filed December 28, 2000, operative December 28, 2000, as amended June 11, 2001:

"(a) For purposes of this Article, "schools" shall be defined as all schools, including charter schools, that receive a ranking on the API including schools participating in the Immediate Intervention/Underperforming Schools Program. These schools are eligible to participate in all three award programs identified in Section 1031.

(b) The API shall be the measure of accountability for all schools, except those that fall under the alternative accountability system. The Superintendent of Public Instruction will develop an alternative accountability system for schools with fewer than 100 valid test scores, schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools and alternative schools, including continuation high schools and independent study schools.

Once the alternative accountability system required by Education Code section 52052(g) is adopted by the State Board of Education, alternative schools may elect to be part of the API accountability system for the purposes of awards and interventions pursuant to the API. If the school elects to be part of the API accountability system, the school shall remain in the system for at least three subsequent years.

(c) For the purposes of these award programs, growth API means the API in the second year of two consecutive years for which the API is calculated. If a school does not receive an API pursuant to subdivisions (d)(1), (d)(2) or (d)(4), the school is ineligible for participation in any of the award programs for the current and subsequent year. If a school does not receive an API pursuant to subdivision (d)(3), the school is ineligible for participation in any of the award programs for the current year only.

(d) A school's API shall be considered invalid under any of the following circumstances:

(1) The local educational agency notifies the California Department of Education (department) that there were adult testing irregularities at the school .

(2) The local educational agency notifies the department that the API is not representative of the pupil population at the school.

(3) The local educational agency notifies the department that the school has experienced a significant demographic change in pupil population between the base year and growth year, and that the API between years is not comparable.

(4) The school's proportion of parental waivers compared to its Standardized Testing and Reporting Program (STAR) enrollment, pursuant to Education Code section 60640 et seq., is equal to or greater than 15 percent for the 2000 STAR. For the 2001 STAR, the school's proportion of parental waivers compared to its STAR enrollment is equal to or greater than 10 percent. There shall be no rounding in determining this minimum parental waiver proportion (i.e., 14.99 percent is not 15 percent).

(5) Information is made available to or obtained by the department that indicates that the integrity of the API may have been compromised. If after reviewing the information, the department determines that further investigation is warranted, the department may conduct an investigation to determine if the integrity of the API has been jeopardized.

(6)The minimum participation in each content area tested pursuant to Education Code section 60642 for grades 2-11 is less than 85 percent of the school participation rate as defined by Section 1032(h)(3) multiplied by the total number of test takers. There shall be no rounding in determining the minimum participation in each content area tested.

(e) In the event that, subsequent to the calculation of an API for a school, information is made available to or obtained by the department that would lead a reasonable person to conclude that one or more of the circumstances set out in subdivision (d) occurred, the department may invalidate the school's API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.

(f) All schools that reach their growth targets or have an API of 800 or more and growth of at least 1 point, have comparable improvement as defined in subdivision (g), and meet the minimum participation rate in subdivision (h), shall be recognized through the Governor's Performance Award Program and the Academic Performance Index Schoolsite Employees Performance Bonus program.

(g) Comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) shall be defined as either: 1) 80 percent of the school-wide API improvement goal for schools with APIs less than 800, simplified to the nearest whole number (i.e., 1.51 equals 2); or 2) the actual distance to 800. Numerically significant subgroups with APIs below 800 at schools with API scores of 800 or

1 Section 1033[46] was amended to add subparagraph (6) to subdivision (b) to

2 establish a deadline for submitting certification of FTE's starting with the STAR

3 2001 testing.

---

above shall also show a one-point gain. Numerically significant subgroups at 800 or above shall maintain a score at or above 800.

(h) For elementary and middle schools, the minimum participation rate for all three awards programs shall be 95 percent; for high schools, it shall be 90 percent, with the intention of increasing this rate to 95 percent in the future.

(1) If the test publisher includes the pupil's answer forms or test booklets for the nationally-normed test pursuant to Education Code section 60642 for grades 2 -11 at the school, in the number of used test forms, the pupil shall be counted as a test-taker.

(2) No pupil shall be counted more than once as a test-taker.

(3) The participation rate shall be calculated as follows:

(A) Divide the total number of test-takers in grades 2-11 at the school site by

(B) The total enrollment in grades 2-11 minus the number of pupils exempted from taking the test either by their Individualized Education Program (IEP) pursuant to Education Code section 60640(e) or parental waivers pursuant to Education Code section 60615.

(4) For purposes of subdivision (3)(B) above, enrollment shall be determined by the enrollment information collected by the department as part of the Standardized Testing and Reporting Program (STAR), pursuant to Education Code sections 60640 et seq.

(5) In the case of pupil testing irregularities, the scores of affected pupils shall be eliminated from the calculations of the school's growth API, although the pupils are counted as tested and shall contribute to the school's participation rate.

(6) There shall be no rounding in determining this minimum participation rate (i.e., 94.9 percent does not equal 95 percent)."

[46] Title 5, California Code of Regulations, section 1033, filed December 28, 2000, operative December 28, 2000, as amended June 11, 2001:

"(a) Schools that meet the eligibility requirements for the Governor's Performance Award Program (GPA) shall receive the per pupil award amount for each of their eligible pupils determined as follows:

(1) The school funding rate is the total number of test-takers divided by the total enrollment on the first day of testing for grades 2-11 minus the IEP exemptions

(2) There shall be no rounding in determining the school funding rate (i.e., 94.9% does not equal 95%).

(3) The kindergarten, first grade and 12th grade enrollment as established for that school year by the California Basic Education Data System (CBEDS) shall be added to the total enrollment on the first day of testing for grades 2-11, less the number of pupils with testing irregularities, then multiplied by the school funding rate. This result, simplified to the nearest whole number (i.e., 1.51 equals 2) shall determine the number of eligible pupils upon which the GPA awards are based

(4)The amount allocated per pupil shall be determined on a pro-rata basis from the total amount of funding available in the annual State Budget.

(b) To participate in the Academic Performance Index Schoolsite Employees Performance Bonus awards, school districts, county offices of education and charter schools shall certify the number of full-time equivalent (FTE) employees employed as of the second principal apportionment of the 1999-2000 school year at each school site under their jurisdiction that are eligible for awards in accordance with Education Code section 52057(a).

(1) The "number of full-time equivalent employees (FTE) employed as of the second principal apportionment" shall be defined as the number of funded FTE positions at the school site as of June 23, 2000.

(2) "Employees at each school site" shall be defined as positions filled by individuals employed by the school district, county office of education, or charter school at least 50 percent of the school year in which the award was earned, and who spent at least 50 percent of his/her total annual work hours at school sites, and who spent at least 20 percent of his/her total annual work hours at the eligible school site.

(5) "Full time equivalent (FTE) position" shall be defined as a position filled by a person that is required to work a minimum of a six hour work day. School districts, county offices of education, and charter schools may choose to use a longer work day in accordance with their local collective bargaining agreements. One person cannot generate more than one FTE position. Part-time positions shall generate a partial FTE on a proportional basis.

(6) The certification shall indicate the number of certificated and classified FTE positions at each school site. The number of certificated employees reported by the school districts, county offices of education, and charter schools shall also be used for purposes of making awards under the Certificated Staff Performance Incentive Act.

(D) "Classified employee" shall be defined as an employee not requiring certification and who meets the school site employee criteria specified in subdivision (b)(2).

(E) "Certficated employee" shall be defined as an employee in a position requiring certification and who holds a document issued by the California Commission on Teacher Credentialing authorizing service in the public schools of California.

(F) "Document" shall be defined as a credential, emergency

1 Section 1034[47] was amended to make a technical correction.

---

permit, or waiver issued by the California Commission on Teacher Credentialing.

(5) For purposes of this subdivision, the deadline for submitting the certification of FTE to the department shall be November 1, 2000 or as soon thereafter as the eligible schools are identified and no later than February 1, 2001. If certification is not received by the department by February 1, 2001, those schools will not receive either the Certificated Staff Performance Incentive Act award or the Academic Performance Index Schoolsite Employees Performance Bonus award.

(6) Starting with STAR 2001 testing, the deadline for submitting the certification of FTE's to the department shall be within 90 days of the department's posting on the website of the certified list of schools eligible to receive the Governor's Performance Award. If the schools' certification is not received by the department by the deadline, the schools will not receive the Certificated Staff Performance Incentive Act award."

[47] Title 5, California Code of Regulations, section 1034, added December 28, 2000, operative December 28, 2000, as amended June 11, 2001 (Repealed January 8, 2002):

"To be eligible to receive awards under the Certified Staff Performance Incentive Act, school sites must have attained a statewide decile rank of 1-5 in the base year of the current growth API and must meet all of the relevant statutory requirements and each of the following requirements:

(a) Each school site must have improved by a minimum of two times its annual growth target on its API between the base year and the current growth year.

(b) All numerically significant ethnic or socioeconomically disadvantaged subgroups at a school must have improved by a minimum of two times their annual growth targets, simplified to the nearest whole number (i.e., 1.51 equals 2). However, all numerically significant ethnic or socioeconomically disadvantaged subgroups with an API of 800 or above must maintain a subgroup API of 800 or above.

(c) In addition to subdivisions (a) and (b) above, each school site shall have the required participation rate for the 2000 growth API as calculated by the department. For the 2000 growth API, each school must show improvement between the 1998 and 1999 testing on the nationally normed test pursuant to Education Code section 60642.

(d) The local educational agency must complete an application on behalf of their eligible schools, which shall include:

(1) The number of eligible schools;

(2) Certification that the data used in the API calculations from the schools is accurate; and

1 Section 1035[48] was amended to make technical corrections.

---

(3) A list of certificated ~~staff in certificated~~ positions on an FTE basis at each of the eligible schools."

[48] Title 5, California Code of Regulations, Section 1035, filed December 28, 2000, operative December 28, 2000, as amended June 11, 2001:

"Distribution of Certificated Staff Performance Incentive Act awards pursuant to the 2000 growth API shall be as follows, with at least one thousand (1,000) $25,000 awards, three thousand seven hundred fifty (3,750) $10,000 awards and up to seven thousand five hundred (7,500) $5,000 awards being distributed in the process. The total amount of funding for this Act provided in the annual State Budget shall be distributed proportionally across each of elementary, middle, and high schools statewide by the number of certificated staff as reported in the most current CBEDS report.

(a) Schools will be declared eligible or ineligible according to the rank of schools pursuant to Education Code section 52052. An "eligible list" will be determined for each type of school (elementary, middle, and high) for the awards distribution.

(b) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times <u>its annual target</u>, the Superintendent of Public Instruction shall apportion $25,000 per certificated school site staff FTE <u>position</u> to be distributed to the certificated school site staff in certificated positions at that school. The number of FTE <u>positions</u> counted shall be subtracted from the awards pool of 1,000 FTE positions.

(c) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion $25,000 per certificated school site staff FTE <u>position</u> to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(d) This process shall continue until all 1,000 $25,000/FTE awards have been allocated to the eligible school sites. If, before all 1,000 awards have been allocated, an eligible school site has more eligible FTE <u>positions</u> than remain in the 1,000 FTE awards pool, all of that school site's FTE <u>positions</u> shall receive $25,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement between the 1998 and 1999 testing on the nationally normed test pursuant to Education Code section 60642 shall receive $25,000 awards.

(e) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target that did not receive $25,000 rewards, the Superintendent of Public Instruction shall apportion $10,000 per certificated school site staff FTE <u>position</u> to be distributed to the certificated school site staff at that school. The number of FTE <u>positions</u> counted shall be subtracted from the awards pool of 3,750 $10,000 awards.

1 Section 1036[49] was amended to make a technical correction.

(f) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion $10,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(g) This process shall continue in consecutive order until all 3,750 $10,000/FTE awards have been allocated to the school sites. If, before all 3,750 awards have been allocated, an eligible school site has more eligible FTE positions than remain in the 3,750 FTE pool, all of that school site's FTE positions shall receive $10,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement between the 1998 and 1999 testing on the nationally normed test pursuant to Education Code section 60642 shall receive $10,000 awards.

(h) The sum of the awards distributed under subdivisions (b) through (g) shall be subtracted from $100 million, and the remainder shall be divided by $5,000 to determine the maximum number of $5,000 awards to be distributed. The $5,000 awards shall be distributed in the same manner as the $25,000 and the $10,000 awards, with the exception that the distribution process will end when the pool of available $5,000 awards is not sufficient to fully fund the eligible FTE positions of the next school or schools in line for the awards."

[49] Title 5, California Code of Regulations, Section 1036, filed December 28, 2000, operative December 28, 2000, as amended June 11, 2001 (repealed January 8, 2002):

"(a) The Academic Performance Index Schoolsite Employees Performance Bonus shall be allocated to individuals and the school site. Funds shall be distributed to the school site for those individuals who worked at the school site for the school year for which the growth API was calculated. These bonuses shall be distributed on an FTE basis to employees assigned to the school site. Staff who were employed at a school site part-time or for less than the full school year shall have their awards pro-rated on ~~an~~ a per FTE basis, as determined by the local educational agency contract.

(b) For the purpose of the Certificated Staff Performance Incentive Act awards, "certificated staff" include those certificated staff employed at the school site in certificated positions for the school year and certificated staff that were employed at the school site part-time or for less than the full school year for which the growth API was calculated. Except as otherwise provided through bargaining unit negotiations pursuant to Education Code section 44653, certificated staff employed at a school site part-time or for less than the full school year shall have their award allocations pro-rated on an FTE basis."

1 Section 1032[50] was amended again on August 2, 2001 to make technical

2 corrections and to add subdivision (j) which allows a school that had its 2000 API

---

[50] Title 5, California Code of Regulations, section 1032, filed December 28, 2000, operative December 28, 2000, as amended August 2, 2001:

"(a) For purposes of this Article, "schools" shall be defined as all schools, including charter schools, that receive a ranking on the API including schools participating in the Immediate Intervention/Underperforming Schools Program. These schools are eligible to participate in all three award programs identified in Section 1031.

(b) The API shall be the measure of accountability for all schools, except those that fall under the alternative accountability system. The Superintendent of Public Instruction will develop an alternative accountability system for schools with fewer than 100 valid test scores, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools.

Once the alternative accountability system required by Education Code section 52052(g) is adopted by the State Board of Education, alternative schools may elect to be part of the API accountability system for the purposes of awards and interventions pursuant to the API. If the school elects to be part of the API accountability system, the school shall remain in the system for at least three subsequent years.

(c) For the purposes of these award programs, growth API means the API in the second year of two consecutive years for which the API is calculated. If a school does not receive an API pursuant to subdivisions (d)(1), (d)(2) or (d)(4), the school is ineligible for participation in any of the award programs for the current and subsequent year. If a school does not receive an API pursuant to subdivision (d)(3), the school is ineligible for participation in any of the award programs for the current year only.

(d) A school's API shall be considered invalid under any of the following circumstances:

(1) The local educational agency notifies the California Department of Education (department) that there were adult testing irregularities at the school .

(2) The local educational agency notifies the department that the API is not representative of the pupil population at the school.

(3) The local educational agency notifies the department that the school has experienced a significant demographic change in pupil population between the base year and growth year, and that the API between years is not comparable.

(4) The school's proportion of parental waivers compared to its Standardized Testing and Reporting Program (STAR) enrollment, pursuant

to Education Code section 60640 et seq., is equal to or greater than 15 percent for the 2000 STAR. For the 2001 STAR, and each subsequent STAR the school's proportion of parental waivers compared to its STAR enrollment is equal to or greater than 10 percent, except when the school's proportion of parental waivers compared to its STAR enrollment is equal to or greater than 10 percent but less than 20 percent. In this case, the department will conduct standard statistical tests to determine whether the pupils tested at the school represent the school's pupils by grade level. If the standard statistical tests demonstrate that the pupils tested represent the school's pupils, then the school's API shall be considered valid. If the standard statistical tests demonstrate that the pupils tested do not represent the school's pupils, then the school's API shall be considered invalid. There shall be no rounding in determining this minimum parental waiver proportion (i.e., ~~14.99~~ 9.99 percent is not ~~15~~ 10 percent).

(5) Information is made available to or obtained by the department that indicates that the integrity of the API may have been compromised. If after reviewing the information, the department determines that further investigation is warranted, the department may conduct an investigation to determine if the integrity of the API has been jeopardized.

(6) ~~The minimum participation in each content area tested pursuant to Education Code section 60642 for grades 2-11 is less than 85 percent of the school participation rate as defined by Section 1032(h)(3) multiplied by the total number of test takers.~~ In any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the school's proportion of the number of test-takers in that content area compared with the total number of test-takers is less than 85 percent. There shall be no rounding in determining the proportion of test-takers in each content area ~~tested~~ (i.e., 84.99 percent is not 85 percent).

(e) In the event that, subsequent to the calculation of an API for a school, information is made available to or obtained by the department that would lead a reasonable person to conclude that one or more of the circumstances set out in subdivision (d) occurred, the department may invalidate the school's API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.

(f) All schools that reach their growth targets or have an API of 800 or more and growth of at least 1 point, have comparable improvement as defined in subdivision (g), and meet the minimum participation rate in subdivision (h), shall be recognized through the Governor's Performance Award Program and the Academic Performance Index Schoolsite Employees Performance Bonus program.

(g) Comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) shall be defined as either: 1) 80 percent of the school-wide API improvement goal for schools with APIs less than 800, simplified to the nearest whole number (i.e., 1.51 equals 2); or 2) the actual distance to 800. Numerically

1 invalidated solely because of excessive parental waivers to be eligible for the

2 Governor's Performance Awards but not for the Certificated Staff Performance

3 Incentive Act.

---

significant subgroups with APIs below 800 at schools with API scores of 800 or above shall also show a one-point gain. Numerically significant subgroups at 800 or above shall maintain a score at or above 800.

(h) For elementary and middle schools, the minimum participation rate for all three awards programs shall be 95 percent; for high schools, it shall be 90 percent, with the intention of increasing this rate to 95 percent in the future.

(1) If the test publisher determines ~~includes the pupil's answer forms or test booklets for the nationally-normed test pursuant to Education Code section 60642~~ for grades 2 –11, that a pupil did attempt to take any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API ~~at the school, in the number of used test forms~~, the pupil shall be counted as a test-taker.

(2) No pupil shall be counted more than once as a test-taker.

(3) The participation rate shall be calculated as follows:

(A) Divide the total number of test-takers in grades 2-11 at the school site by

(B) The total enrollment in grades 2-11 minus the number of pupils exempted from taking the test either by their Individualized Education Program (IEP) pursuant to Education Code section 60640(e) or parental waivers pursuant to Education Code section 60615.

(4) For purposes of subdivision (3)(B) above, enrollment shall be determined by the enrollment information collected by the department as part of the Standardized Testing and Reporting Program (STAR), pursuant to Education Code sections 60640 et seq.

(5) In the case of pupil testing irregularities, the scores of affected pupils shall be eliminated from the calculations of the school's growth API, although the pupils are counted as tested and shall contribute to the school's participation rate.

(6) There shall be no rounding in determining this minimum participation rate (i.e., 94.9 percent does not equal 95 percent).

(i) (Reserved)

(j) A school that had its 2000 API invalidated solely because of excessive parental waivers (subdivision (d)(4)) will be eligible for the Governor's Performance Awards based on the 2001 growth API if the school and all of its numerically significant subgroups achieve twice the growth targets associated with the school's 1999 base API and the school has met all other 2001 eligibility criteria. While being eligible for the Governor's Performance Awards, such a

1 Section 1032[51] was amended again on November 15, 2001 to add

2 subdivision (i) which requires the Department of Education to publish on its web

---

school would not be eligible for awards under the Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.)."

[51] Title 5, California Code of Regulations, section 1032, filed December 28, 2000, operative December 28, 2000, as amended November 15, 2001:

"(a) For purposes of this Article, "schools" shall be defined as all schools, including charter schools, that receive a ranking on the API including schools participating in the Immediate Intervention/Underperforming Schools Program. These schools are eligible to participate in all three award programs identified in Section 1031.

(b) The API shall be the measure of accountability for all schools, except those that fall under the alternative accountability system. The Superintendent of Public Instruction will develop an alternative accountability system for schools with fewer than 100 valid test scores, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools and alternative schools, including continuation high schools and independent study schools.

Once the alternative accountability system required by Education Code section 52052(g) is adopted by the State Board of Education, alternative schools may elect to be part of the API accountability system for the purposes of awards and interventions pursuant to the API. If the school elects to be part of the API accountability system, the school shall remain in the system for at least three subsequent years.

(c) For the purposes of these award programs, growth API means the API in the second year of two consecutive years for which the API is calculated. If a school does not receive an API pursuant to subdivisions (d)(1), (d)(2) or (d)(4), the school is ineligible for participation in any of the award programs for the current and subsequent year. If a school does not receive an API pursuant to subdivision (d)(3), the school is ineligible for participation in any of the award programs for the current year only.

(d) A school's API shall be considered invalid under any of the following circumstances:

(1) The local educational agency notifies the California Department of Education (department) that there were adult testing irregularities at the school .

(2) The local educational agency notifies the department that the API is not representative of the pupil population at the school.

(3) The local educational agency notifies the department that the school has experienced a significant demographic change in pupil population between the base year and growth year, and that the API between years is not comparable.

(4) The school's proportion of parental waivers compared to its Standardized Testing and Reporting Program (STAR) enrollment, pursuant to Education Code section 60640 et seq., is equal to or greater than 15 percent for the 2000 STAR. For the 2001 STAR, and each subsequent STAR the school's proportion of parental waivers compared to its STAR enrollment is equal to or greater than 10 percent, except when the school's proportion of parental waivers compared to its STAR enrollment is equal to or greater than 10 percent but less than 20 percent. In this case, the department will conduct standard statistical tests to determine whether the pupils tested at the school represent the school's pupils by grade level. If the standard statistical tests demonstrate that the pupils tested represent the school's pupils, then the school's API shall be considered valid. If the standard statistical tests demonstrate that the pupils tested do not represent the school's pupils, then the school's API shall be considered invalid. There shall be no rounding in determining this minimum parental waiver proportion (i.e., 9.99 percent is not 10 percent).

(5) Information is made available to or obtained by the department that indicates that the integrity of the API may have been compromised. If after reviewing the information, the department determines that further investigation is warranted, the department may conduct an investigation to determine if the integrity of the API has been jeopardized.

(6) In any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the school's proportion of the number of test-takers in that content area compared with the total number of test-takers is less than 85 percent. There shall be no rounding in determining the proportion of test-takers in each content area (i.e., 84.99 percent is not 85 percent).

(e) In the event that, subsequent to the calculation of an API for a school, information is made available to or obtained by the department that would lead a reasonable person to conclude that one or more of the circumstances set out in subdivision (d) occurred, the department may invalidate the school's API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.

(f) All schools that reach their growth targets or have an API of 800 or more and growth of at least 1 point, have comparable improvement as defined in subdivision (g), and meet the minimum participation rate in subdivision (h), shall be recognized through the Governor's Performance Award Program and the Academic Performance Index Schoolsite Employees Performance Bonus program.

(g) Comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) shall be defined as either: 1) 80 percent of the school-wide API improvement goal for schools with APIs less than 800, simplified to the nearest whole number (i.e., 1.51 equals 2); or 2) the actual distance to 800. Numerically significant subgroups with APIs below 800 at schools with API scores of 800 or

above shall also show a one-point gain. Numerically significant subgroups at 800 or above shall maintain a score at or above 800.

(h) For elementary and middle schools, the minimum participation rate for all three awards programs shall be 95 percent; for high schools, it shall be 90 percent, with the intention of increasing this rate to 95 percent in the future.

(1) If the test publisher determines, for grades 2 –11, that a pupil did attempt to take any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the pupil shall be counted as a test-taker.

(2) No pupil shall be counted more than once as a test-taker.

(3) The participation rate shall be calculated as follows:

(A) Divide the total number of test-takers in grades 2-11 at the school site by

(B) The total enrollment in grades 2-11 minus the number of pupils exempted from taking the test either by their Individualized Education Program (IEP) pursuant to Education Code section 60640(e) or parental waivers pursuant to Education Code section 60615.

(4) For purposes of subdivision (3)(B) above, enrollment shall be determined by the enrollment information collected by the department as part of the Standardized Testing and Reporting Program (STAR), pursuant to Education Code sections 60640 et seq.

(5) In the case of pupil testing irregularities, the scores of affected pupils shall be eliminated from the calculations of the school's growth API, although the pupils are counted as tested and shall contribute to the school's participation rate.

(6) There shall be no rounding in determining this minimum participation rate (i.e., 94.9 percent does not equal 95 percent).

(i) The department will publish on its web site a report of STAR testing and demographic data used in the calculation and reporting of the API. Prior to publishing the report on its web site, the department will announce the report in writing and/or by electronic communication to each local educational agency that appears in the API report. The local educational agency must notify the department and the test publisher via e-mail or in writing whether there are errors in the STAR testing or demographic data. The local education agency's notification must be received by the department and the test publisher within thirty (30) calendar days of the initial date of publication of the STAR testing and demographic data on the department's web-site. The local educational agency must submit all data corrections to the test publisher in writing or e-mail. The test publisher shall specify a deadline for submittal of the data corrections that is no less than forty-five (45) calendar days after the date of publication of the STAR testing and demographic data.

(j) A school that had its 2000 API invalidated solely because of excessive parental waivers (subdivision (d)(4)) will be eligible for the Governor's Performance Awards based on the 2001 growth API if the school and all of its

1 site a report of STAR testing and demographic data used in the calculation and
2 reporting of the API. Prior to publishing the report on its web site, the department
3 will announce the report in writing and/or by electronic communication to each
4 local educational agency that appears in the report. Upon receipt, school districts,
5 county offices of education and charter schools, for the first time, are required to
6 notify the department and the test publisher within 30 days by way of e-mail or in
7 writing whether there are errors in the STAR testing or demographic data.
8 The Title 5 California Code of Regulations cited above were amended again
9 on January 8, 2002 and operative that date. Section 1031[52] was amended to

---

numerically significant subgroups achieve twice the growth targets associated with the school's 1999 base API and the school has met all other 2001 eligibility criteria. While being eligible for the Governor's Performance Awards, such a school would not be eligible for awards under the Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.)."

[52] Title 5, California Code of Regulations, Section 1031, filed December 28, 2000, operative December 28, 2000, as amended January 8, 2002 and operative January 8, 2002:

"(a) The Academic Performance Index (API) measures the performance of California public schools, especially the academic performance of pupils, and demonstrates comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools pursuant to Education Code section 52052 and the Framework for The Academic Performance Index, July 1999 and The 1999 Base Year Academic Performance Index, December 15, 1999, which are incorporated herein.

(b) The purpose of Article 1.7 is to implement the programs established by ~~three~~ two statutes relating to the API:

(1) The Governor's Performance Award Program of the Public Schools Accountability Act of 1999 (Education Code sections 52050 et seq.).

(2) The Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.)

~~(3) The Academic Performance Index Schoolsite Employees Performance Bonus (Section 40, Chapter 71 of the Statutes of 2000)."~~

1 delete subparagraph (3) of subdivision (b) to remove reference to the one-time

2 Academic Performance Index Schoolsite Employees Performance Bonus.

3 Section 1032[53] was amended to make technical changes in the conditions

4 requiring invalidation of a school's API in 2001 and subsequent years and setting

5 forth programs for which a school may still be eligible after invalidation.

---

[53] Title 5, California Code of Regulations, Section 1032, filed December 28, 2000, operative December 28, 2000, as amended January 8, 2002:

"(a) For purposes of this Article, "schools" shall be defined as all schools, including charter schools, that receive a ranking on the API including schools participating in the Immediate Intervention/Underperforming Schools Program. These schools are eligible to participate in the award programs identified in Section 1031.

(b) For the purposes of these award programs, the API shall be the measure of accountability for all schools, except those that fall under the alternative accountability system, once such a system is adopted by the State Board of Education as required by Education Code section 52052(g). The Superintendent of Public Instruction will develop an alternative accountability system for schools with fewer than 100 valid test scores, schools that fall under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools.

~~Once the alternative accountability system required by Education Code section 52052(g) is adopted by the State Board of Education,~~ a Alternative schools may elect to be part of the API accountability system for the purposes of awards and interventions pursuant to the API. If the school elects to be part of the API accountability system, the school shall remain in the system for at least the three subsequent years.

(c) For the purposes of these award programs, growth API means the API in the second year of two consecutive years for which the API is calculated. ~~If a school does not receive an API pursuant to subdivisions (d)(1), (d)(2) or (d)(4), the school is ineligible for participation in any of the award programs for the current and subsequent year. If a school does not receive an API pursuant to subdivision (d)(3), the school is ineligible for participation in any of the award programs for the current year only.~~

(d) In 2001 and subsequent years, a ~~A~~ school's API shall be considered invalid under any of the following circumstances:

(1) The local educational agency notifies the California Department of Education (department) that there were adult testing irregularities at the school affecting 5% or more of the pupils tested.

(2) The local educational agency notifies the department that the API is not representative of the pupil population at the school.

(3) The local educational agency notifies the department that the school has experienced a significant demographic change in pupil population between the base year and growth year, and that the API between years is not comparable.

(4) The school's proportion of parental waivers compared to its Standardized Testing and Reporting Program (STAR) enrollment, pursuant to Education Code section 60640 et seq., is equal to or greater than 15 percent for the 2000 STAR. For the 2001 STAR and each subsequent STAR, the school's proportion of parental waivers compared to its STAR enrollment is equal to or greater than 10 percent, except when the school's proportion of parental waivers compared to its STAR enrollment is equal to or greater than 10 percent but less than 20 percent. In this case, the department will conduct standard statistical tests to determine whether the pupils tested at the school represent the school's pupils by grade level. If the standard statistical tests demonstrate that the pupils tested represent the school's pupils, then the school's API shall be considered valid. If the standard statistical tests demonstrate that the pupils tested do not represent the school's pupils, then the school's API shall be considered invalid. There shall be no rounding in determining this minimum parental waiver proportion (i.e., 9.99 percent is not 10 percent).

(5) ~~Information is made available to or obtained by the department that indicates that the integrity of the API may have been compromised. If after reviewing the information, the department determines that further investigation is warranted, the department may conduct an investigation to determine if the integrity of the API has been jeopardized.~~ In any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the school's proportion of the number of test-takers in that content area compared with the total number of test-takers is less than 85 percent. There shall be no rounding in determining the proportion of test-takers in each content area (i.e., 84.99 percent is not 85 percent).

(6) ~~In any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the school's proportion of the number of test-takers in that content area compared with the total number of test-takers is less than 85 percent. There shall be no rounding in determining the proportion of test-takers in each content area (i.e., 84.99 percent is not 85 percent).~~ If, at any time, information is made available to or obtained by the department that would lead a reasonable person to conclude that one or more of the preceding circumstances occurred. If after reviewing the information, the department determines that further investigation is warranted, the department may conduct an investigation to determine if the integrity of the API has been jeopardized.

(f) ~~In the event that, subsequent to the calculation of an API for a school, information is made available to or obtained by the department that would lead a reasonable person to conclude that one or more of the~~

~~circumstances set out in subdivision (d) occurred, t~~ The department may invalidate or withhold the school's API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.

(e) If a school's API is considered invalid pursuant to subdivisions (d)(1), (d)(2), (d)(4), or (d)(5), the school is ineligible for participation in any of the award programs for the current and subsequent year. If a school does not receive an API pursuant to subdivision (d)(3), the school is ineligible for participation in any of the award programs for the current year only.

(g) If fewer than 5% of the pupils tested are affected by adult testing irregularities, the school will receive a valid API, however, the school is not eligible for participation in any of the award programs for the current year.

~~(f)~~(g) All schools that ~~reach their growth targets or~~ have an API ~~of 800 or more and growth of at least 1 point~~ score increase of at least 5% of the difference between the school's prior year score and 800 or an API score increase of five points, whichever is greater, and have comparable improvement as defined in subdivision ~~(g)~~(h), and meet the minimum participation rate in subdivision ~~(h)~~(i), shall be recognized through the Governor's Performance Award Program ~~and the Academic Performance Index Schoolsite Employees Performance Bonus program~~.

~~(g)~~(h) Comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) shall be defined as ~~either 1) 80 percent of the school-wide API improvement goal for schools with APIs less than 800, simplified to the nearest whole number (i.e., 1.51 equals 2); or 2) the actual distance to 800. Numerically significant subgroups with APIs below 800 at schools with API scores of 800 or above shall also show a one-point gain. Numerically significant subgroups at 800 or above shall maintain a score at or above 800.~~ an API score increase of at least 80% of the school's API growth target as established pursuant to Education Code section 52052 except when the sum of a subgroup's growth target and the subgroup's API is greater or equal to 800. In these cases, comparable improvement shall be defined as the distance from the subgroup's API to 800. In no case shall comparable improvement be less than 4 points.

~~(h)~~(i) For elementary and middle schools, the minimum participation rate for the awards programs shall be 95 percent; for high schools, it shall be 90 percent, with the intention of increasing this rate to 95 percent in the future.

(1) If the test publisher determines, for grades 2 to 11, that a pupil did attempt to take any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the pupil shall be counted as a test-taker.

(2) No pupil shall be counted more than once as a test-taker.

(3) The participation rate shall be calculated as follows:

(A) Divide the total number of test-takers in grades 2-11 at the school site by

(B) The total enrollment in grades 2-11 minus the number of pupils exempted from taking the test either by their Individualized Education Program (IEP) pursuant to Education Code section 60640(e) or parental waivers pursuant to Education Code section 60615.

(4) For purposes of subdivision (3)(B) above, enrollment shall be determined by the enrollment information collected by the department as part of the Standardized Testing and Reporting Program (STAR), pursuant to Education Code sections 60640 et seq.

(5) In the case of pupil testing irregularities, the scores of affected pupils shall be eliminated from the calculations of the school's growth API, although the pupils are counted as tested and shall contribute to the school's participation rate.

(6) There shall be no rounding in determining this minimum participation rate (i.e., 94.9 percent does not equal 95 percent).

~~(i)~~(j) The department will publish on its web site a report of STAR testing and demographic data used in the calculation and reporting of the API. Prior to publishing the report on its web site, the department will announce the report in writing and/or by electronic communication to each local educational agency that appears in the API report. The local educational agency must notify the department and the test publisher via e-mail or in writing whether there are errors in the STAR testing or demographic data. The local education agency's notification must be received by the department and the test publisher within thirty (30) calendar days of the initial date of publication of the STAR testing and demographic data on the department's web-site. The local educational agency must submit all data corrections to the test publisher in writing or e-mail. The test publisher shall specify a deadline for submittal of the data corrections that is no less than forty-five (45) calendar days after the date of publication of the STAR testing and demographic data.

~~(j) A school that had its 2000 API invalidated solely because of excessive parental waivers (subdivision (d)(4)) will be eligible for the Governor's Performance Awards based on the 2001 growth API if the school and all of its numerically significant subgroups achieve twice the growth targets associated with the school's 1999 base API and the school has met all other 2001 eligibility criteria. While being eligible for the Governor's Performance Awards, such a school would not be eligible for awards under the Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.).~~

(k) The criteria for awards eligibility based on the 2001 growth API for a school that had its 2000 API invalidated solely because of excessive parental waivers pursuant to subdivision (d)(4) or for a school whose school district obtained a State Board of Education waiver of Section 1032(c) on their behalf will be (1) twice the school's 1999 growth target or 10 points, whichever is greater, and (2) comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a), and the school has met all other 2001 eligibility criteria. Comparable

1 Section 1033[54] was amended to clarify school eligibility requirements for the
2 Governor's Performance Award Program and to delete subdivision (b) which was
3 added to section 1034.

---

improvement shall be defined as twice the 1999 subgroup target for each subgroup, except when the sum of a subgroup's 1999 growth target and the subgroup's 1999 API is greater than or equal to 800. In these cases, comparable improvement shall be defined as two times the distance from the subgroup's 1999 API to 800. In no case shall comparable improvement be less than 8 points. While being eligible for the Governor's Performance Awards, such a school would not be eligible for awards under the Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.)."

[54] Title 5, California Code of Regulations, section 1033, filed December 28, 2000, operative December 28, 2000, as amended on January 8, 2002:

"(a) Schools that meet the eligibility requirements in 2000-01 for the Governor's Performance Award Program (GPA) shall receive ~~the~~ a per pupil award amount for each of their eligible pupils ~~determined as follows~~. Eligible pupils are those who received a score on any subject matter area test (Total Reading, Total Math, Language, Spelling, Science, or Social Science) of the nationally normed test pursuant to Education Code section 60642 and a score on any standards-based achievement test pursuant to Education Code section 60642.5. A score on the nationally normed test pursuant to Education Code section 60642 can be a percentile, the number correct, a scale score, or a normal curve equivalent. A score on the standards-based achievement test pursuant to Education Code section 60642.5 is defined as the performance level.

~~(1) The school funding rate is the total number of test-takers divided by the total enrollment on the first day of testing for grades 2-11 minus the IEP exemptions~~

~~(2) There shall be no rounding in determining the school funding rate (i.e., 94.9% does not equal 95%).~~

~~(3) The kindergarten, first grade and 12th grade enrollment as established for that school year by the California Basic Education Data System (CBEDS) shall be added to the total enrollment on the first day of testing for grades 2-11, less the number of pupils with testing irregularities, then multiplied by the school funding rate. This result, simplified to the nearest whole number (i.e., 1.51 equals 2) shall determine the number of eligible pupils upon which the GPA awards are based.~~

~~(4)~~(b)The amount allocated ~~per pupil~~ for this award shall be determined on a prorata basis from the total amount of funding available in the annual State Budget."

~~(b) To participate in the Academic Performance Index Schoolsite Employees Performance Bonus awards, school districts, county offices of education and charter schools shall certify the number of full-time equivalent (FTE) employees employed as of the second principal apportionment of the 1999-2000 school year at each school site under their jurisdiction that are eligible for awards in accordance with Education Code section 52057(a).~~

~~(1) The "number of full-time equivalent employees (FTE) employed as of the second principal apportionment" shall be defined as the number of funded FTE positions at the school site as of June 23, 2000.~~

~~(2) "Employees at each school site" shall be defined as positions filled by individuals employed by the school district, county office of education, or charter school at least 50 percent of the school year in which the award was earned, and who spent at least 50 percent of his/her total annual work hours at school sites, and who spent at least 20 percent of his/her total annual work hours at the eligible school site.~~

~~(7) "Full time equivalent (FTE) position" shall be defined as a position filled by a person that is required to work a minimum of a six hour work day. School districts, county offices of education, and charter schools may choose to use a longer work day in accordance with their local collective bargaining agreements. One person cannot generate more than one FTE position. Part-time positions shall generate a partial FTE on a proportional basis.~~

~~(8) The certification shall indicate the number of certificated and classified FTE positions at each school site. The number of certificated employees reported by the school districts, county offices of education, and charter schools shall also be used for purposes of making awards under the Certificated Staff Performance Incentive Act.~~

~~(G) "Classified employee" shall be defined as an employee not requiring certification and who meets the school site employee criteria specified in subdivision (b)(2).~~

~~(H) "Certficated employee" shall be defined as an employee in a position requiring certification and who holds a document issued by the California Commission on Teacher Credentialing authorizing service in the public schools of California.~~

~~(I) "Document" shall be defined as a credential, emergency permit, or waiver issued by the California Commission on Teacher Credentialing.~~

~~(5) For purposes of this subdivision, the deadline for submitting the certification of FTE to the department shall be November 1, 2000 or as soon thereafter as the eligible schools are identified and no later than February 1, 2001. If certification is not received by the department by February 1, 2001, those schools will not receive either the Certificated Staff Performance Incentive Act award or the Academic Performance Index Schoolsite Employees Performance Bonus award.~~

1 Section 1034[55], subdivision (a), was amended by renumbering its

2 subdivisions and to change the application requirements to require (A) certification

---

~~(6) Starting with STAR 2001 testing, the deadline for submitting the certification of FTE's to the department shall be within 90 days of the department's posting on the website of the certified list of schools eligible to receive the Governor's Performance Award. If the schools' certification is not received by the department by the deadline, the schools will not receive the Certificated Staff Performance Incentive Act award."~~

[55] Title 5, California Code of Regulations, section 1034, filed December 28, 2000, effective December 28, 2000, as amended January 8, 2002 to amend and renumber subdivision (a) and to add subdivision (b) (formerly subdivision (b) of section 1033, as amended):

"(a) To be eligible to receive awards under the Certified Staff Performance Incentive Act, school sites must have attained a statewide decile rank of 1-5 in the base year of the current growth API and must meet all of the relevant statutory requirements and each of the following requirements:

~~(a)~~(1) Each school site must have improved by a minimum of two times its annual growth target on its API between the base year and the current growth year.

~~(b)~~(2) All numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) at a school must have improved by a minimum of two times their annual growth targets, except when the sum of a subgroup's growth target and the subgroup's API is greater than or equal to 800. In these cases, comparable improvement shall be defined as two times the distance from the subgroup's API to 800. In no case shall comparable improvement be less than 8 points.

~~(c)~~(3) Each school site shall have the required participation rate for the current growth API, pursuant to Section 1032(i), as calculated by the California Department of Education. Each school must have been eligible for API awards in the year preceding the current API growth year.

~~(d)~~(4) The local educational agency must complete an application on behalf of its eligible schools, which shall include:

~~(1) The number of eligible schools.~~

~~(2)~~(A) Certification that the data used in the API calculations from the schools is accurate, and

~~(3) A list of certificated positions on an FTE basis at each of the eligible schools.~~

(B) The number of certificated positions on an FTE basis at each of the eligible schools pursuant to subdivision (b) below.

(b) To participate in the ~~Academic Performance Index Schoolsite Employees Performance Bonus~~ Certificated Staff Performance Incentive Act (CSPIA) awards, school districts ~~county offices of education,~~ and charter schools shall certify, as appropriate, the number of full-time equivalent (FTE) certificated employees employed by the school district or charter school, whether still resident in the school district or not, as of the second principal apportionment ~~of~~ for the ~~1999-2000 school~~ year in which the award was earned at each school site under their jurisdiction that ~~are~~ is eligible for awards in accordance with Education Code section ~~52057(a)~~ 44651.

(1) The "number of full-time equivalent (FTE) certificated employees ~~(FTE)~~ employed by the school district or charter school, whether still resident in the school district or not, as of the second principal apportionment" shall be defined as the number of funded certificated FTE positions at the school site as of ~~June 23, 2000~~ the date established annually by the department pursuant to Education Code sections 41335 and 41601 for the submission by school districts of the attendance documents necessary for the department to prepare the second principal apportionment.

(2) "Employees at ~~each~~ the school site" shall be defined as positions filled by individuals employed by the school district~~, county office of education,~~ or charter school at least 50 percent of the school year in which the award was earned, and who spent at least 50 percent of his/her total annual work hours at school sites, and who spent at least 20 percent of his/her total annual work hours at the eligible school site working with pupils in any of grades K-12. County office of education and state employees are not eligible to participate.

(3) "Full-time equivalent (FTE) positions" may include "full-time" and "part-time" positions. A "full-time" certificated position shall be defined as a position filled by a person that is required to work a minimum of a six hour work day. ~~School districts, county offices of education, and charter schools may choose to use a longer work day~~ Workdays longer than six hours, if in accordance with ~~their~~ local collective bargaining agreements, should be used as the basis for "full-time" and "part-time" FTE calculation. One person cannot generate more than one FTE position. Part-time positions shall generate a partial FTE on a proportional basis.

~~(4) The certification shall indicate the number of certified and classified FTE positions at each school site. The number of certificated employees reported by the school districts, county offices of education, and charter schools shall also be used for purposes of making awards under the Certificated Staff Performance Incentive Act.~~

~~(A) "Classified employee" shall be defined as an employee not requiring certification and who meets the school site employee criteria specified in subdivision (b)(2).~~

that the data used in the API calculations from the schools is accurate and (B) to report the number of certificated positions on an FTE basis at each of the eligible schools. Subdivision (b) was added to include former subdivision (b) of section 1033 which was also amended to delete references to the Academic Performance Index Schoolsite Employees Performance Bonus awards and to replace those references with the Certificated Staff Performance Incentive Act awards. The amendment also excluded county offices of education from that award program.

Section 1035[56] was amended to make technical corrections in the procedures and priorities in the distribution of the Certificated Staff Performance Incentive Act awards.

~~(B)~~(4) "Certificated employee" shall be defined as an employee in a position requiring certification and who holds a document issued by the California Commission on Teacher Credentialing authorizing service in the public schools of California.

~~(C)~~(5) "Document" shall be defined as a credential, emergency permit, or waiver issued by the California Commission on Teacher Credentialing.

~~(5) For purposes of this subdivision, the deadline for submitting the certification of FTEs to the department shall be November 1, 2000 or as soon thereafter as the eligible schools are identified and no later than February 1, 2001. If certification is not received by the department by February 1, 2001, those schools will not receive either the Certificated Staff Performance Incentive Act award or the Academic Performance Index Schoolsite Employees Performance Bonus award.~~

(c) Starting ~~with STAR 2001 testing~~ in 2001-02, the deadline for submitting the application, including the certification of FTEs to the department shall be within ~~90~~ the close of business on the 45th calendar days ~~of~~ after the department's posting on ~~the~~ its website of the certified list of schools eligible to receive the ~~governor's Performance Award~~ Certificated Staff Performance Incentive Act award. If ~~the~~ a school's ~~certification~~ application is not received by the department by the deadline, the school will not receive the ~~Certificated Staff Performance Incentive Act~~ award."

[56] Title 5, California Code of Regulations, Section 1035, filed December 28, 2000, operative December 28, 2000, as amended January 8, 2002:

"Distribution of Certificated Staff Performance Incentive Act awards pursuant to the 2000 growth API shall be as follows, with at least one thousand (1,000) $25,000 awards, three thousand seven hundred fifty (3,750) $10,000 awards and up to seven thousand five hundred (7,500) $5,000 awards being distributed in the process. The total amount of funding for this Act provided in the annual State Budget shall be distributed proportionally across each of elementary, middle, and high schools statewide by the number of certificated staff as reported in the most current CBEDS report.

(a) Schools will be declared eligible or ineligible according to the rank of schools pursuant to Education Code section 52052. An "eligible list" will be determined for each type of school (elementary, middle, and high) for the awards distribution.

(b) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion $25,000 per certificated school site staff FTE position to be distributed to the certificated school site staff in certificated positions at that school. The number of FTE positions counted shall be subtracted from the awards pool of 1,000 FTE positions.

(c) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion $25,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(d) This process shall continue until all 1,000 $25,000/FTE awards have been allocated to the eligible school sites. If, before all 1,000 awards have been allocated, an eligible school site has more eligible FTE positions than remain in the 1,000 FTE awards pool, all of that school site's FTE positions shall receive $25,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement ~~between the 1998 and 1999 testing on the nationally normed test pursuant to Education Code section 60642~~ over it's API growth target in the prior year shall receive $25,000 awards.

(e) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target that did not receive $25,000 rewards, the Superintendent of Public Instruction shall apportion $10,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool of 3,750 $10,000 awards.

(f) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion $10,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

1 Former section 1036 was repealed and replaced with a new section 1036[57]
2 which set a deadline, starting in 2000-2001, for the submission to the Department
3 of Education of a waiver of any of sections 1031 through 1039.
4 Sections1037[58], 1038[59] and 1039[60] were amended to delete references to
5 the one-time Academic Performance Index Schoolsite Employees Performance
6 Bonus award program.

(g) This process shall continue in consecutive order until all 3,750 $10,000/FTE awards have been allocated to the school sites. If, before all 3,750 awards have been allocated, an eligible school site has more eligible FTE positions than remain in the 3,750 FTE pool, all of that school site's FTE positions shall receive $10,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement ~~between the 1998 and 1999 testing on the nationally normed test pursuant to Education Code section 60642~~ over its API growth target in the prior year shall receive $10,000 awards.

(h) The sum of the awards distributed under subdivisions (b) through (g) shall be subtracted from $100 million, and the remainder shall be divided by $5,000 to determine the maximum number of $5,000 awards to be distributed. The $5,000 awards shall be distributed in the same manner as the $25,000 and the $10,000 awards, with the exception that the distribution process will end when the pool of available $5,000 awards is not sufficient to fully fund the eligible FTE positions of the next school or schools in line for the awards."

[57] Title 5, California Code of Regulations, Section 1036, as added January 8, 2002, after repeal of former Section 1036, filed December 28, 2000, operative December 28, 2000:

"Starting in 2000-01, the deadline for submitting to the department a waiver of any of Sections 1031 through 1039 shall be no later than the close of business on the 60th calendar day after the department's posting on its website of the certified list of schools eligible to receive the Governor's Performance Award."

[58] Title 5, California Code of Regulations, Section 1037, filed December 28, 2000, operative December 28, 2000, as amended January 8, 2002:

" ~~Academic Performance Index Schoolsite Employee Performance Bonus awards and~~ Certificated Staff Performance Incentive Act awards shall not be considered compensation for the purposes of calculating retirement benefits or contributions,

1 Chapter 159, Statutes of 2001, Section 73, restated Education Code

2 Section 52054, without change.

3 Chapter 745, Statutes of 2001, Section 24, amended Education Code

4 Section 52052[61] to delete the requirement that the Superintendent of Public

---

or for any other benefit that an employee is eligible to receive where the benefit or contribution amount is calculated based on compensation."

[59] Title 5,California Code of Regulations, Section 1038, filed January 30, 2001, operative January 30, 2001, as amended January 8, 2002:

"Governor's Performance Awards~~, Academic Performance Index Schoolsite Employees Performance Bonus awards,~~ and Certificated Staff Performance Incentive Act awards shall not be subject to school district, county, or school indirect charges or other administrative charges."

[60] Title 5, California Code of Regulations, Section 1039, originally filed December 28, 2000 as Section 1038, renumbered and filed January 30, 2001, operative January 30, 2001, as amended January 8, 2002:

"Use of funds at the school site for the Governor's Performance Award Program ~~and the school site portion of the Academic Performance Index Schoolsite Employees Performance Bonus awards~~ shall be decided by the existing school site governance team/school site council representing major stakeholders and then ratified by the governing board of each local educational agency."

[61] Education Code Section 52052, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999, as amended by Chapter 745, Statutes of 2001, Section 24:

"(a) (1) By July 1, 1999, the Superintendent of Public Instruction, with approval of the State Board of Education, shall develop an Academic Performance Index (API), to measure the performance of schools, especially the academic performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools.

(2) For purposes of this section, a numerically significant ethnic or socioeconomically disadvantaged subgroup is a subgroup that constitutes at least 15 percent of a school's total pupil population and consists of at least 30 pupils. An ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at a school.

(3) The API shall consist of a variety of indicators currently reported to the State Department of Education including, but not limited to, the results of the achievement test administered pursuant to Section 60640, attendance rates for pupils and certificated school personnel for elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools.

(A) The pupil data collected for the API that comes from the achievement test administered pursuant to Sections 60640 and 60644 and the high school exit examination administered pursuant to Section 60851, when fully implemented, shall be disaggregated by special education status, English language learners, socioeconomic status, gender and ethnic group. Only the test scores of pupils who were enrolled in a school district in the prior fiscal year may be included in the test results reported in the API. Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index.

(B) Before including high school graduation rates and attendance rates in the index, the Superintendent of Public Instruction shall determine the extent to which the data is currently reported to the state and the accuracy of the data.

~~(C) If the Superintendent of Public Instruction determines that accurate data for these indicators is not available, the Superintendent of Public Instruction shall report to the Governor and the Legislature by September 1, 1999, and recommend necessary action to implement an accurate reporting system.~~

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The assessment of the applied academic skills matrix test developed pursuant to Section 60604.

(2) The nationally normed test as augmented pursuant to paragraph (1) of subdivision (f) of Section 60644.

(3) The high school exit examination.

(c) Based on the API, the Superintendent of Public Instruction shall develop, and the State Board of Education shall adopt, expected annual percentage growth targets for all schools based on their API baseline score as measured in July 1999. Schools are expected to meet these growth targets through effective allocation of available resources. For schools below the statewide API performance target adopted by the State Board of Education pursuant to subdivision (d), the minimum annual percentage growth target shall be 5 percent of the difference between a school's actual API score and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target shall have, as their growth target, maintenance of their API score above the statewide API performance target. However, the State Board of Education may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement. To

1 Instruction report to the Governor and the Legislature by September 1, 1999 if he

2 or she determines that accurate data is not available for the determination of the

3 API.

4 Chapter 749, Statutes of 2001, Sections 3 and 4 added Education Code

5 Sections 52054.3 and 52055.51. Section 52054.3[62] allows for a school selected

---

meet its growth target, a school shall demonstrate that the annual growth in its API is equal to or more than its schoolwide annual percentage growth target and that all numerically significant ethnic and socioeconomically disadvantaged subgroups, as defined in subdivision (a) of Section 52052, are making comparable improvement.

(d) Upon adoption of state performance standards by the State Board of Education, the Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target. When fully developed, schools may either meet the state target or meet their growth targets to be eligible for the Governor's Performance Award Program as set forth in Section 52057.

(e) Beginning in June 2000, the API shall be used for both of the following:

(1) Measuring the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Ranking all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

(h) Only comprehensive high schools, middle schools, and elementary schools that have a population of 100 or more pupils may be included in the API rating.

(i) By July 1, 2000, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall develop an alternative accountability system for schools with fewer than 100 pupils, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools."

[62] Education Code Section 52054.3, added by Chapter 749, Statutes of 2001, Section 3, effective October 12, 2001:

"A school selected on or after September 2001 may elect to use an existing plan instead of the action plan required pursuant to Section 52054 if that plan meets the requirements specified pursuant to subdivisions (c), (d), (e), (f), (g), (h), and (i) of Section 52054. If an existing plan needs modification, the external evaluator or

1 after September 2001 to use an existing plan instead of the action plan required

2 pursuant to Section 52054 provided it meets certain requirements. Section

3 52055.51[63] allows the Superintendent of Public Instruction, with the approval of the

---

entity with which the school district contracts pursuant to Section 52054 shall provide technical assistance in making those modifications."

[63] Education Code Section 52055.51, added by Chapter 749, Statutes of 2001, Section 4, effective October 12, 2001:

"(a) Instead of the actions specified in subdivision (c) of Section 52055.5, as that section read on January 1, 2001, and notwithstanding any other provision of law, the Superintendent of Public Instruction, with the approval of the State Board of Education, may require the district to enter into a contract with a school assistance and intervention team.

(b) Team members should possess a high degree of knowledge and skills in the areas of school leadership, curriculum, and instruction aligned to state academic content and performance standards, classroom management and discipline, academic assessment, parent-school relations, and evaluation and research-based reform strategies and have proven successful expertise specific to the challenges inherent in low-performing schools.

(c) The team shall provide intensive support and expertise to implement the school reform initiatives in the plan. Decisions about interventions shall be data driven. A school assistance and intervention team shall work with school staff, site planning teams, administrators, and district staff to improve pupil literacy and achievement by assessing the degree of implementation of the current action plan, refining and revising the action plan, and making recommendations to maximize the use of fiscal resources and personnel in achieving the goals of the plan. The district shall provide support and assistance to enhance the work of the team at the targeted schoolsites.

(d) Not later than 60 days after the school's API becomes public, the team must have completed an initial report. The report shall include recommendations for corrective actions chosen from a range of interventions, including the reallocation of district fiscal resources to ensure that appropriate resources are targeted to those specific interventions identified in the recommendations of the team for the targeted schools and other changes deemed appropriate to make progress toward meeting the schools growth target. Not later than 90 days after the API is made public, the governing board of the school district shall adopt the team's recommendations at a regularly scheduled meeting of the governing board. The governing board may not place the adoption on the consent calendar. The report shall be submitted to the Superintendent of Public Instruction and State Board of Education.

(e) No less than three times during the year, the school district and schoolsite shall present the team with data regarding progress toward the goals

1 State Board of Education, to require a district to enter into a contract with a school
2 assistance and intervention team. Subdivision (e) requires that, no less than three
3 times during the year, the school district and schoolsite shall present the team with
4 data regarding progress toward the goals established by the team's initial
5 assessment.

6 Chapter 887, Statutes of 2001, Section 1, amended Education Code
7 Section 52052[64] to make technical corrections and other changes. Subdivision (b)

---

established by the team's initial assessment. The data shall be presented to the governing board of the school district at a regularly scheduled meeting. The team shall, to the extent possible, utilize existing site data. The data shall also be provided to the Superintendent of Public Instruction and State Board of Education. Every effort shall be made to report this data in a manner that minimizes the length and complexity of the reporting requirement in order to maximize the focus on improving pupil literacy and achievement.

(f) An action taken pursuant to this paragraph shall not increase local costs or require reimbursement by the Commission on State Mandates."

[64] Education Code Section 52052, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999, as amended by Chapter 887, Statutes of 2001, Section 1:

"(a) (1) By July 1, 1999, the Superintendent of Public Instruction, with approval of the State Board of Education, shall develop an Academic Performance Index (API), to measure the performance of schools, especially the academic performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools.

(2) For purposes of this section, a numerically significant ethnic or socioeconomically disadvantaged subgroup is a subgroup that constitutes at least 15 percent of a school's total pupil population and consists of at least 30 pupils. An ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at a school. For schools whose API scores are based on test scores of no fewer than 11 and no more than 99 pupils, numerically significant subgroups shall be defined by the Superintendent of Public Instruction, with approval by the State Board of Education.

(3) The API shall consist of a variety of indicators currently reported to the State Department of Education including, but not limited to, the results of the achievement test administered pursuant to Section 60640, attendance rates for

pupils and certificated school personnel for elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools.

(A) The pupil data collected for the API that comes from the achievement test administered pursuant to Sections 60640 and 60644 and the high school exit examination administered pursuant to Section 60851, when fully implemented, shall be disaggregated by special education status, English language learners, socioeconomic status, gender and ethnic group. Only the test scores of pupils who were enrolled in a school district in the prior fiscal year may be included in the test results reported in the API. Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index.

(B) Before including high school graduation rates and attendance rates in the index, the Superintendent of Public Instruction shall determine the extent to which the data are currently reported to the state and the accuracy of the data.

(C) If the Superintendent of Public Instruction determines that accurate data for these indicators is not available, the Superintendent of Public Instruction shall report to the Governor and the Legislature by September 1, 1999, and recommend necessary action to implement an accurate reporting system.

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The assessment of the applied academic skills matrix test developed pursuant to Section 60604.

(2) The nationally normed test ~~as augmented pursuant to paragraph (1) of subdivision (f) of Section 60644~~ designated pursuant to Section 60642.

(3) The standards-based achievement tests provided for in Section 60642.5.

(~~3~~4) The high school exit examination.

(c) Based on the API, the Superintendent of Public Instruction shall develop, and the State Board of Education shall adopt, expected annual percentage growth targets for all schools based on their API baseline score ~~as measured in July 1999~~ from the previous year. Schools are expected to meet these growth targets through effective allocation of available resources. For schools below the statewide API performance target adopted by the State Board of Education pursuant to subdivision (d), the minimum annual percentage growth target shall be 5 percent of the difference between a school's actual API score and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target shall have, as their growth target, maintenance of their API score above the statewide API performance target. However, the State Board of Education may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for

improvement. To meet its growth target, a school shall demonstrate that the annual growth in its API is equal to or more than its schoolwide annual percentage growth target and that all numerically significant ethnic and socioeconomically disadvantaged subgroups, as defined in subdivision (a) of Section 52052, are making comparable improvement.

(d) Upon adoption of state performance standards by the State Board of Education, the Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target. When the API is fully developed, schools ~~may either meet the state target or meet their growth targets~~ must, at a minimum, meet their annual API growth targets to be eligible for the Governor's Performance Award Program as set forth in Section 52057. The State Board of Education may establish additional criteria that schools must meet to be eligible for the Governor's Performance Awards Program.

(e) Beginning in June 2000, the API shall be used for both of the following:

(1) Measuring the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Ranking all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

~~(f) Only comprehensive high schools, middle schools, and elementary schools that have a population of 100 or more pupils may be included in the API rating.~~

(f) (1) A comprehensive high school, middle school, or elementary school with 11 to 99 valid test scores of pupils who were enrolled in a school within the same school district in the prior fiscal year shall receive an API score with an asterisk that indicates less statistical certainty than API scores based on 100 or more test scores.

(2) A school under the jurisdiction of a county board of education or a county superintendent of schools, a community day school, or an alternative school, including continuation high schools and opportunity schools, may receive an API score if the school has 11 more or more valid test scores and the school chooses to receive an API score for at least three years.

(3) A school that participates in the Immediate Intervention/Underperforming Schools Program described in Section 52053 shall receive an API score for the duration of its participation in that program, unless the Superintendent of Public Instruction determines that an API score would be an invalid measure of the school's performance for one or more of the following reasons:

(A) Irregularities in testing procedures occurred.

(B) The data used to calculate the school's API score are not representative of the pupil population at the school.

1 was amended to add the standards-based achievement tests provided by Section
2 60642.5 to other tests which are to be incorporated into the API.
3 Chapter 887/01, Section 2, added Education Code Section 52052.2[65] to
4 provide that a school that receives an API score with an asterisk shall be eligible
5 for both the Governor's Performance Award Program and for participation in the
6 Immediate Intervention/Underperforming School Program.
7 Chapter 887/01, Section 3, amended Education Code Section 52053[66] to
8 make technical changes.

(C) Significant demographic changes in the school's pupil population render year-to-year comparisons of pupil performance invalid.

(D) The Department of Education discovers or receives information indicating that the integrity of the school's API score has been compromised.

(g) Only schools with 100 or more test scores contributing to the API may be included in the API rankings.

(~~g~~h) By July 1, 2000, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall develop an alternative accountability system for schools with fewer than 100 ~~pupils~~ test scores ~~and for schools~~ contributing to the schools' API scores, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools serving high-risk pupils, including continuation high schools and ~~independent study~~ opportunity schools."

[65] Education Code Section 52052.2, added by Chapter 887, Statutes of 2001, Section 2:

"A school that receives an API score with an asterisk shall be eligible for the Governor's Performance Awards Program, as set forth in Section 52057 and for participation in the Immediate Intervention/Underperforming Schools Program, as set forth in Section 52053."

[66] Education Code Section 52053, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999, as amended by Chapter 887, Statutes of 2001, Section 3:

"(a) The Immediate Intervention/Underperforming Schools Program is hereby established. By August 15, 1999, the Superintendent of Public Instruction,

with the approval of the State Board of Education, shall invite schools that scored below the 50th percentile on the achievement tests administered pursuant to Section 60640 both in the spring of 1998 and in the spring of 1999 to participate in the Immediate Intervention/Underperforming Schools Program. A school invited to participate may take any action not otherwise prohibited under state or federal law and that would not require reimbursement by the Commission on State Mandates to improve pupil performance.

(b) The total number of schools participating in the program in 1999 shall be 430. Unless subdivision (d) applies, schools that apply will be selected based on the order in which they apply within ranks of deciles, not to exceed 86 per decile, within the following grade level categories:

(1) No more than 301 elementary schools.

(2) No more than 78 middle schools.

(3) No more than 52 high schools.

(c) The 86 schools selected within each decile range pursuant to subdivision (b) shall proportionately represent elementary, middle, and high schools and shall provide statewide proportionate geographic representation of urban and rural schools.

(d) If fewer than the number of schools in any grade level category apply, schools that scored below the 50th percentile in those grade level categories that did not apply for the program shall randomly be selected by the Superintendent of Public Instruction, with the approval of the State Board of Education, to participate based on their proportional representation in the state until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(e) If more than the requisite number of schools apply for any grade level category, the Superintendent of Public Instruction shall select an array of schools that reflect a broad range of academic performance of schools that scored below the 50th percentile, until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(f) A school selected to participate on or before September 1, 1999, shall be awarded a planning grant from funds appropriated pursuant to paragraph (1) of subdivision (a) of Section 2 of the act adding this section in the amount of fifty thousand dollars ($50,000). A school selected to receive federal funds pursuant to paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall be awarded an implementation grant in an amount of at least fifty thousand dollars ($50,000) pursuant to Public Law 105-78.

(g) Schools receiving funding under paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall comply with Public Law 105-78.

(h) By September 15, 2000, and each year thereafter, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall identify schools that failed to meet their Academic Performance Index (API) growth targets and that have an API score below the 50th percentile in the previous school year relative to all other public elementary, middle or high schools. The Superintendent of Public Instruction shall invite these schools to participate in the Immediate Intervention/Underperforming Schools Programs. A school invited to participate

1 Chapter 887/01, Section 4, amended Education Code Section 52054[67] to

2 delete subdivision (a)(2) to remove the option of contracting with an entity with

---

may take any action to improve pupil performance not otherwise prohibited under state or federal law and that would not require reimbursement by the Commission on State Mandates.

(i) The total number of schools selected for participation in the program shall be no more than the number that can be funded through the total appropriation for the planning grants referenced in subdivision (l) below.

(j) If fewer schools apply for participation than can be funded, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall randomly select the balance of schools from schools eligible to participate that did not apply. Insofar as possible, the schools randomly selected should reflect a representative proportion of elementary, middle and high schools, as well as a broad range of academic achievement.

(k) If more schools apply for participation than can be funded, the schools shall be selected on the order in which they apply. Insofar as possible, the schools ~~randomly~~ selected should reflect a representative proportion of elementary, middle and high schools, as well as a broad range of academic achievement.

(l) A school selected to participate on or before October 15, 2000, and each year thereafter, shall be awarded a planning grant from funds appropriated pursuant to this act of fifty thousand dollars ($50,000).

(m) Schools selected for participation in the program shall be notified by the Superintendent of Public Instruction no later than October 15 of each year."

[67] Education Code Section 52054, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999, as amended by Chapter 749, Statutes of 2001, Section 4:

"(a) Commencing in the 2001-02 fiscal year, by November 15 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program ~~shall~~ may do either of the following:

(1) Contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

~~(2) Contract with any entity that has proven successful expertise specific to the challenges inherent in low-performing schools. These entities may include, but are not limited to:~~

~~(A) Institutions of higher education.~~

~~(B) County offices of education.~~
~~(C) School district personnel.~~

(b) The selected external evaluator or entity shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator or entity shall do all of the following:

(1) Inform the parents and legal guardians, in writing, that the school has been selected to participate in the Immediate Intervention/Underperforming Schools Program due to its below average performance.

(2) Hold a public meeting at the school, in cooperation with the principal, to which all parents and legal guardians of pupils in the school receive a written invitation. The invitation to the meeting may be combined with the written notice required by paragraph (1).

(3) Solicit, at the public meeting, the recommendations and opinions of the participating parents and legal guardians of pupils in the school regarding actions that should be taken to improve the performance of the school. These opinions and recommendations shall be considered by the external evaluator or entity and the community team in the development or modification of the action plan pursuant to this section or Section 52054.3

~~(4) Provide technical assistance to the schoolsite.~~

(5) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator or entity and the community team in the development or modification of the action plan pursuant to this section or Section 52054.3. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By February 15 of the school year in which the school is selected to participate, the selected external evaluator or entity, in collaboration with the broad-based schoolsite and community team selected pursuant to subdivision (a), shall complete a review of the school that identifies weaknesses that contribute to the school's below average performance, make recommendations for improvement, and begin to develop an action plan to improve the academic performance of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the State Board of Education pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a scope that requires reimbursement by the Commission on State Mandates for its implementation.

(d) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

~~(2) Identify the current barriers at the school and district toward improvements in pupil achievement.~~

~~(3) Identify schoolwide and districtwide strategies to remove these barriers.~~

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding the achievement of English language learners, pupils with exceptional needs, pupils who qualify for free and reduced price meals, and ~~all~~ pupils ~~by race, ethnicity, and gender~~ in numerically significant subgroups.

~~(6) Set short-term academic objectives pursuant to Section 52052 for a two-year period that will allow the school to make adequate progress toward the growth targets established for each participating school for pupil achievement as measured by all of the following to the extent that the data is available for the school:~~

(A) The achievement test administered pursuant to Section 60640.

(B) Graduation rates for grades 7 to 12, inclusive.

(C) Attendance rates for pupils and school personnel for elementary, middle, and secondary schools.

(D) Any other indicators approved by the State Board of Education.

(e) The school action plan shall focus on improving pupil academic performance, improving the involvement of parents and guardians, improving the effective and efficient allocation of resources and management of the school, and identifying and developing solutions that take into account the underlying causes for low performance by pupils.

(f) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(g) The school action plan may propose to increase the number of instructional days offered at the schoolsite and also may propose to increase up to a full 12 months the amount of time for which certificated employees are contracted, if all of the following conditions are met:

(1) Provisions of the plan proposed pursuant to this subdivision shall not violate current applicable collective bargaining agreements.

(2) An agreement is reached with the exclusive representative concerning staffing specifically to accommodate the extended school year or 12-month contract.

(h) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(i) Upon its completion, the action plan shall be submitted to the governing board of the school districts for its approval. ~~After the plan is approved,~~

1 proven successful expertise and to require the governing board to contract with an

2 external evaluator. It also amended subdivision (i) to require that the approved

3 plan be submitted to the Superintendent of Public Instruction.

4 Chapter 887/01, Section 5, amended Education Code Section 52055.5[68] to

5 delete subdivision (a) and the Governor's Performance Award Program and added

---

~~but no later than May 15 of the year that follows the year the school is selected to participate, the plan shall be submitted to the Superintendent of Public Instruction with a request for funding in the form prescribed by the Superintendent of Public Instruction, who shall review the school action plan and recommend approval or disapproval of the school's request for funding to the State Board of Education.~~ The approval may be conducted during a regularly scheduled public meeting.

~~(j) Not later than July 15 of the year next following the year in which a School is selected for participation, the State Board of Education shall review and approve or disapprove the school's request for funding, based on the recommendation of the Superintendent of Public Instruction. Within thirty days of the State Board of Education's review, the Superintendent of Public Instruction shall notify the effected school districts of the state of the board's action regarding the request for funding. In conjunction with its approval of a request for funding to implement a school's action plan, the State Board of Education may, at the request of the governing board of the school district or the county board or education for a school under the jurisdiction, waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300."~~

[68] Education Code Section 52055.5, added by Chapter 3, 1st Executive Session, Statutes of 1999-2000, Section 1, effective June 25, 1999, as amended by Chapter 887, Statutes of 2001, Section 5:

~~"(a) Twenty-four months after receipt of funding pursuant to Section 52054.5, a school that has met or exceeded its growth target each year shall receive a monetary or nonmonetary award, under the Governor's Performance Award Program, as set forth in Section 52057. Funds received pursuant to that section may be used at the school's discretion.~~

~~(b)~~ "(a) Twenty-four months after receipt of funding pursuant to Section 52054.5, a school that has not met its growth targets each year, but demonstrates significant growth, as determined by the State Board of Education, shall continue to participate in the program for an additional year and to receive funding in the

amount specified in Section 52054.5. Thirty-six months after receipt of funds pursuant to Section 52054.5, a school is no longer eligible to receive funding pursuant to that section.

~~(c)~~ (b) Twenty-four months after receipt of funding pursuant to Section 52054.5, a school that has not met its growth targets ~~within the periods described in either subdivision (a) or (b), as applicable,~~ each year and has failed to show significant growth, as determined by the State Board of Education, shall be deemed a low-performing school. Notwithstanding any other provision of law, the Superintendent of Public Instruction shall assume all the legal rights, duties, and powers of the governing board with respect to that school. The Superintendent of Public Instruction, in consultation with the State Board of Education and the governing board of the school district, shall reassign the principal of that school subject to the findings in subdivision (d). In addition to reassigning the principal, the Superintendent of Public Instruction, in consultation with the State Board of Education, shall, notwithstanding any other provision of law, do at least one of the following:

(1) Revise attendance options for pupils to allow them to attend any public school in which space is available. If additional attendance options are made available, nothing in this option shall be construed to require either the sending or receiving school district to incur additional transportation costs.

(2) Allow parents to apply directly to the State Board of Education for the establishment of a charter school and allow parents to establish the charter school at the existing schoolsite.

(3) Under the supervision of the Superintendent of Public Instruction, assign the management of the school to a college, university, county office of education, or other appropriate educational institution. However, the Superintendent of Public Instruction may not assume the management of the school.

(4) Reassign other certificated employees of the school.

(5) Renegotiate a new collective bargaining agreement at the expiration of the existing collective bargaining agreement.

(6) Reorganize the school.

(7) Close the school.

(c) In addition to the actions listed in subdivision (b), the Superintendent of Public Instruction, in consultation with the State Board of Education, may take any other action considered necessary or desirable against the school district or the school district governing board, including appointment of a new superintendent or suspension of the authority of the governing board with respect to the school or schools identified pursuant to subdivision (b).

(d) Before the Superintendent of Public Instruction may take any action against a principal pursuant to subdivision (b), the Superintendent of Public Instruction or a designee of the superintendent shall hold a public hearing on the matter in the school district and make both of the following findings:

1 subdivision (e) which allows a school that has not met its growth targets within 36
2 months of receiving funding, but which has shown significant growth, to continue
3 to be monitored by the Superintendent of Public Instruction until it meets its annual
4 growth target. Other technical changes were made to accommodate the deletion
5 of subdivision (a) and the addition of subdivision (e).

6 PART III. STATEMENT OF THE CLAIM

7 SECTION 1. COSTS MANDATED BY THE STATE

8 The Statutes, Education Code sections, and California Code of Regulations
9 sections referenced in this test claim result in school districts incurring costs
10 mandated by the state, as defined in Government Code section 17514[69], by

---

(1) A finding that the principal had the authority to take specific enumerated actions that would have helped the school meet its performance goals.

(2) A finding that the principal failed to take specific enumerated actions pursuant to paragraph (1).

(e) A school that has not met its growth targets within 36 months of receiving funding pursuant to Section 52054.5, but has shown significant growth, as determined by the State Board of Education, shall continue to be monitored by the Superintendent of Public Instruction until it meets its annual growth target or the statewide performance target. If, in any year between the third year of implementation funding and the first year the school meets its growth target, the school fails to make significant growth, as determined by the State Board of Education, that school shall be deemed a low-performing school and subject to the provisions of paragraphs (1) to (7), inclusive, of subdivision (b).

(f) An action taken pursuant to subdivision (b), (c), or (d) shall not increase local costs or require reimbursement by the Commission on State Mandates.

(g) An action taken pursuant to subdivision (b), (c), or (d) shall be accompanied by specific findings by the Superintendent of Public Instruction and the State Board of Education that the action is directly related to the identified causes for continued failure by a school to meet its performance goals."

[69] Government Code section 17514, as added by Chapter 1459/84:

"Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute

1 creating new state-mandated duties related to the uniquely governmental function
2 of providing public education to students and these statutes apply to school
3 districts and do not apply generally to all residents and entities in the state.[70]
4 The new duties mandated by the state upon school districts, county offices
5 of education and charter schools, require state reimbursement of the direct and
6 indirect costs of labor, materials and supplies, data processing services and
7 software, contracted services and consultants, equipment and capital assets, staff
8 and student training and travel to implement the following activities:
9 A) Establish, periodically update and maintain data gathering
10 proceedings to collect and report data as may be required by the
11 Superintendent of Public Instruction for computation of the API,
12 pursuant to Education Code section 52052. This includes, but is not
13 limited to:

---

enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

[70] Public schools are a Article XIII B, Section 6 "program," pursuant to Long Beach Unified School District v. State of California, (1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155:

"In the instant case, although numerous private schools exist, education in our society is considered to be a peculiarly government function. (Cf. Carmel Valley Fire Protection Dist. v. State of California (1987) 190 Cal.App.3d at p. 537) Further, public education is administered by local agencies to provide service to the public. Thus public education constitutes a 'program' within the meaning of Section 6."

(1) Notifying the Department of Education when circumstances may exist which would invalidate a school's API, pursuant to Title 5, California Code of Regulations, Section 1032, subdivision (d).

(2) Upon receipt of a report of STAR testing and demographic data from the Department of Education, to notify the department and the test publisher within 30 days by way of e-mail or in writing whether there are errors in the STAR testing or demographic data, pursuant to Title 5, California Code of Regulations section 1032, subdivision (j).

(3) Submit all data corrections to the test publisher in writing or e-mail on or before a deadline specified by the test publisher, pursuant to Title 5, California Code of Regulations, Section 1032, subdivision (j).

(4) To the extent current rates are not available to the State Department of Education, to respond to any requests from the department for attendance rates for pupils and certificated school personnel for elementary schools, middle schools and secondary schools, pursuant to Education Code Section 52052(a).

(5) To the extent current rates are not available to the State Department of Education, to respond to any requests from the department for graduation rates for pupils in secondary schools, pursuant to Education Code Section 52052(a).

(6) To provide the Superintendent of Public Instruction, when required, with data pertaining to high school graduation and attendance rates, pursuant to Education Code Section 52052(a).

B) For those schools who are required, pursuant to Education Code Sections 52053(j) and/or 52056.5, to participate in the Immediate Intervention/Underperforming School Program and to the extent funding is unavailable or insufficient:

(1) To contract with an external evaluator and appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel, pursuant to Education Code Section 52054, subdivision (a).

(2) To assist the external evaluator and schoolsite and community team, as requested or required, in the preparation of an action plan, pursuant to Education Code Section 52054, subdivisions (b) through (i).

(3) To contribute matching funds to any implementation grant provided, pursuant to Education Code Section 52054.5.

(4) For those which fail to meet their annual short-term growth targets within 12 months following receipt of funding, to hold a public hearing and to consult with the external evaluator and the schoolsite and community team in choosing interventions in order to continue to implement the action plan pursuant to Education Code section 52055.

1 (5) For those which may be deemed a low-performing school
2 pursuant to Subdivision (c) of Education Code section 52055.5
3 (as it read on January 1, 2001), when required by the
4 Superintendent of Public Instruction, to enter into a contract with
5 a school assistance and intervention team, pursuant to Education
6 Code, section 52055.51.
7 (6) For those which are required to enter into a contract with a
8 school assistance and intervention team, to provide support and
9 assistance to enhance the work of the team at the targeted
10 schoolsites, pursuant to Education Code Section 52055.51,
11 subdivision (c).
12 (7) For those which are required to enter into a contract with a school
13 assistance and intervention team, to adopt the team's
14 recommendations at a regularly scheduled meeting of the
15 governing board and to submit the recommendations to the
16 Superintendent of Public Instruction and the State Board of
17 Education, pursuant to Education Code Section 52055.51,
18 subdivision (d).
19 (8) For those which have entered into a contract with a school
20 assistance and intervention team, no less than three times during
21 the year, to present the team with data regarding progress toward
22 the goals established by the team, and to present the data to the
23 governing board, the Superintendent of Public Instruction, and

1 the State Board of Education, pursuant to Education Code
2 Section 52055.51, subdivision (e).
3 (9) By November 30 subsequent to the first full year of action
4 plan implementation, and each November 30 thereafter, to submit
5 an evaluation to the Superintendent of Public Instruction of the
6 impact, costs, benefits of the program, and a report as to whether
7 the schools have, or have not, met their growth targtets, pursuant
8 to Education Code Section 52058, subdivision (a).
9 C) For school districts and charter schools (and not county offices of
10 education) to establish, periodically update and maintain employee
11 payroll records to receive, administer and distribute award monies to
12 staff, as part of the one-time Certificated Staff Performance Incentive
13 Act, pursuant to Education Code Section 44653.
14 D) Prior to January 8, 2002, for each school district and charter school
15 (and not county offices of education) to complete an application on
16 behalf of its eligible schools to participate in the Certificated Staff
17 Performance Incentive Act which shall include (1) the number of
18 eligible schools, (2) certification that the data used in the API
19 calculations is accurate, and (3) a list of certificated staff positions on
20 an FTE basis at each of the eligible schools. After January 8, 2002
21 the application shall certify (A) that the data used in the API
22 calculations from the schools is accurate and (B) to report the
23 number of certificated positions on an FTE basis at each of the

eligible schools, pursuant to Education Code Section 44651 and Title 5, California Code of Regulations, Section 1034.

E) When an award is received as part of Certificated Staff Performance Incentive Act, for school districts and charter schools to negotiate with the exclusive representative of the bargaining unit of the teachers and other certificated staff to determine how the funds are to be distributed, pursuant to Education Code Section 44653.

F) In the event the governing board and the exclusive representative of teachers and other certificated staff do not reach an agreement regarding the distribution of an award under the Certificated Staff Performance Incentive Act or, if the teachers and other certificated staff are not represented by an exclusive bargaining representative, for school districts and charter schools to calculate and distribute the award amounts as a percentage of base salaries that is determined by dividing the total amount of the award by the sum of the annual base salaries for teachers and other certificated staff of the school, pursuant to Education Code Section 44653.

G) When requested by the Superintendent of Public Instruction, to certify the number of full-time equivalent employees for the period requested in the creation of the one-time Academic Performance Index Schoolsite Employees Performance Bonus, pursuant to Chapter 71, Statutes of 2000, Section 40.

H) For school districts, charter schools and county offices of education to establish, periodically update and maintain employee payroll records to receive, administer and distribute award moneys to staff as part of the Academic Performance Index Schoolsite Employees Performance Bonus, pursuant to Chapter 71, Statutes of 2000, Section 40.

I) Upon receipt of an award from the Governor's Performance Award Program and the school site portion of the Academic Performance Index Schoolsite Employees Performance Bonus award, to consult with the existing school site governance team/school site council to decide the use of such awards and have the distribution plan ratified by the governing board, pursuant to Chapter 71, Statutes of 2000, Section 40 and Title 5, California Code of Regulations, Section 1039.

J) The administrative costs to calculate individual salary awards, to determine and locate recipients, and to deliver or mail those individual salary awards, pursuant to Education Code Section 44654 and Title 5, California Code of Regulations, Section 1038.

K) Salary-driven benefit costs, but not limited to, including the employer's share of Medicare, unemployment insurance and worker's compensation incurred as a result of individual salary awards made pursuant to the Governor's High Achieving Schools Program, the Certificated Staff Performance Incentive Act or the Academic Performance Index Schoolsite Employees Performance

1 Bonus program, pursuant to Education Code Section 44654 and Title

2 5, California Code of Regulations, Section 1038.

3 SECTION 2. EXCEPTIONS TO MANDATE REIMBURSEMENT

4 None of the Government Code Section 17556[71] statutory exceptions to a

5 finding of costs mandated by the state apply to this test claim. Note, that to the

6 extent school districts may have previously performed functions similar to those

[71] Government Code section 17556 as last amended by Chapter 589/89:

"The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

(a) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.

(b) The statute or executive order affirmed for the state that which had been declared existing law or regulation by action of the courts.

(c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

(f) The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction."

1 mandated by the referenced code sections, such efforts did not establish a

2 preexisting duty that would relieve the state of its constitutional requirement to

3 later reimburse school districts when these activities became mandated.[72]

4 SECTION 3. FUNDING PROVIDED FOR THE MANDATED PROGRAM

5 Chapter 3, Statutes of 1999-2000, Section 2[73], appropriated $193,200,000

6 according to the following schedule:

---

[72] Government Code section 17565:
"If a local agency or school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate."

[73] Chapter 3, Statutes of 1999, Section 2:

"(a) The sum of one hundred ninety-three million two hundred thousand dollars ($193,200,000) is hereby appropriated according to the following schedule:

(1) Sixty-three million seven hundred four thousand dollars ($63,704,000) from the General Fund to the Superintendent of Public Instruction for allocation to school districts for purposes of providing funding for planning and grants for implementing the Immediate Intervention/Underperforming Schools Program as set forth in Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28 of the Education Code.

(2) Thirty-two million four hundred forty-six thousand dollars ($32,446,000) from the Federal Trust Fund to the Superintendent of Public Instruction for allocation to school districts for purposes of providing funding for planning and grants for implementing the Immediate Intervention/Underperforming Schools Program as set forth in Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28 of the Education Code.

(3) Ninety-six million one hundred fifty thousand dollars ($96,150,000) from the General Fund to the Superintendent of Public Instruction for allocation to school districts that meet or exceed performance growth targets established by the board pursuant to the High Achieving/Improving Schools Program as set forth in Article 4 (commencing with Section 52056) of Chapter 6.1 of Part 28 of the Education Code. Funds appropriated pursuant to this paragraph that have not been allocated by June 30, 2000, shall be available for allocation and expenditure for purposes of this paragraph in the 2001-02 fiscal year.

(4) Nine hundred thousand dollars ($900,000) from the General Fund to the Superintendent of Public Instruction to provide support services related to

1 (1) Sixty-three million seven hundred four thousand dollars
2 ($63,704,000) was appropriated from the General Fund for the
3 purpose of providing funding for planning and grants for
4 implementing the Immediate Intervention/Underperforming School
5 Program (commencing with Education Code Section 52053, et seq.)
6 (2) Thirty-two million four hundred forty-six thousand dollars
7 ($32,446,000) from the Federal Trust Fund for the purpose of
8 providing funding for planning and grants for implementing the
9 Immediate Intervention/Underperforming School Program
10 (commencing with Education Code Section 52053, et seq.)
11 (3) Ninety-six million one hundred fifty thousand dollars ($96,150,000)
12 from the General Fund for allocation to school districts that meet or
13 exceed performance growth targets pursuant to the High
14 Achieving/Improving Schools Program (commending with Education
15 Code Section 52056). Funds appropriated pursuant to this paragraph
16 that have not been allocated by June 30, 2000, shall be available for
17 allocation and expenditure for purposes of this paragraph in the
18 2001-02 fiscal year.

---

programs established by the Public Schools Accountability Act of 1999 pursuant to Chapter 6.1(commencing with Section 52050) of Part 28 of the Education Code.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraphs (1) and (3) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1999-2000 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes

1 (3) Nine hundred thousand dollars ($900,000) from the General Fund to
2 provide support services related to programs established by the
3 Public Schools Accountability Act of 1999 (commencing with
4 Education Section 52050).

5 Chapter 71, Statutes of 2000, Section 40[74], appropriated Three hundred
6 Fifty million dollars ($350,000,000) from the General Fund for allocation on a one-
7 time basis to school districts, county offices of education, and charter schools for
8 the Academic Performance Index Schoolsite Employees Performance Bonus.

9 To the extent these funds are actually budgeted and distributed for the
10 purpose of reimbursing the administrative or matching costs to implement the
11 mandate, the funds will reduce the costs claimed.

12 PART IV. ADDITIONAL CLAIM REQUIREMENTS

13 The following elements of this claim are provided pursuant to Section 1183,
14 Title 2, California Code of Regulations:

15 Exhibit 1: The Declaration of R. Chris Westphall, Jr., Ed.D.
16 Exhibit 2: Copies of Code Sections Cited
17 Education Code Section 44650
18 Education Code Section 44651
19 Education Code Section 44652
20 Education Code Section 44653
21 Education Code Section 44654

"appropriated pursuant to Article XIIIB," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1999-2000 fiscal year.

[74] See: Footnote 23, supra

1		Education Code Section 52050
2		Education Code Section 52051
3		Education Code Section 52051.5
4		Education Code Section 52052
5		Education Code Section 52052.2
6		Education Code Section 52052.3
7		Education Code Section 52052.5
8		Education Code Section 52053
9		Education Code Section 52053.5
10		Education Code Section 52054
11		Education Code Section 52054.5
12		Education Code Section 52055
13		Education Code Section 52055.5
14		Education Code Section 52055.51
15		Education Code Section 52056
16		Education Code Section 52056.5
17		Education Code Section 52057
18		Education Code Section 52058
19	Exhibit 3:	Copies of Statutes Cited
20		Chapter 887, Statutes of 2001
21		Chapter 749, Statutes of 2001
22		Chapter 745, Statutes of 2001
23		Chapter 159, Statutes of 2001

1 Chapter 695, Statutes of 2000

2 Chapter 190, Statutes of 2000

3 Chapter 71, Statutes of 2000

4 Chapter 52, Statutes of 1999

5 Chapter 3, Statutes of 1999-2000 (1x)

6 Exhibit 4: Copies of Title 5, California Code of Regulations Cited

7 Section 1031

8 Section 1032

9 Section 1033

10 Section 1034

11 Section 1035

12 Section 1036

13 Section 1037

14 Section 1038

15 Section 1039

16 /

17 /

18

19

PART V. CERTIFICATION

I certify by my signature below, under penalty of perjury, that the statements made in this document are true and complete of my own knowledge or information and belief.

Executed on June 24, 2002 at Carmichael, California, by:

Diana Halpenny, Chief Counsel
San Juan Unified School District

Voice (916) 971-7109
Fax: (915) 971-7704
/
/

PART VI. APPOINTMENT OF REPRESENTATIVE

The San Juan Unified School District appoints Keith B. Petersen, SixTen and Associates, as its representative for this test claim.

Diana Halpenny, Chief Counsel
San Juan Unified School District

June 24, 2002
Date

/
/
/

EXHIBIT 1
DECLARATION OF DIANA HALPENNY

DECLARATION OF DIANA HALPENNY, GENERAL COUNSEL

San Juan Unified School District

Test Claim of San Juan Unified School District
Chapter 887, Statutes of 2001

Education Code Section 44650
Education Code Section 44651
Education Code Section 44652
Education Code Section 44653
Education Code Section 44654
Education Code Section 52050
Education Code Section 52051
Education Code Section 52051.5
Education Code Section 52052
Education Code Section 52052.5
Education Code Section 52052.3
Education Code Section 52052.5
Education Code Section 52053
Education Code Section 52053.5
Education Code Section 52054
Education Code Section 52054.3
Education Code Section 52054.5
Education Code Section 52055
Education Code Section 52055.5
Education Code Section 52055.51
Education Code Section 52056
Education Code Section 52056.5
Education Code Section 52057
Education Code Section 52058

Title 5, California Code of Regulations
Section 1031
Section 1032
Section 1033
Section 1034
Section 1035
Section 1036
Section 1037
Section 1038
Section 1039

Chapter 71, Statutes of 2000, Section 40

<u>Academic Performance Index</u>

I. Diana Halpenny, General Counsel, San Juan Unified School District, make the following declaration and statement:

The District is required to implement the Public Schools Accountability Act of 1999 pursuant to the Education Code Sections, the uncodified statute and the Title 5 Regulations enumerated above.

Those sections, uncodified statute and regulations require the San Juan Unified School District to:

A) Pursuant to Education Code Section 52052, establish, periodically update and maintain data gathering procedures to collect and report data as may be required by the Superintendent of Public Instruction for computation of the API. This includes, but is not limited to:

(1) Pursuant to Title 5, California Code of Regulations, Section 1032, subdivision (d), notifying the Department of Education when circumstances may exist which would invalidate a school's API.

(2) Pursuant to Title 5, California Code of Regulations, Section 1032, subdivision (j), upon receipt of a report of STAR testing and demographic data from the Department of Education, to notify the department and the test publisher within 30 days by way of e-mail or in writing whether there are errors in the STAR testing or demographic data.

(3) Pursuant to Title 5, California Code of Regulations, Section 1032, subdivision (j), submit all data corrections to the test publisher in writing or e-mail on or before a deadline specified by the publisher.

(4) Pursuant to Education Code Section 52052, subdivision (a), to respond to any requests from the department for attendance rates for pupils and certificated school personnel for elementary schools, middle schools and secondary schools.

(5) Pursuant to Education Code Section 52052, subdivision (a), to respond to any requests from the department for graduation rates for pupils in secondary schools.

(6) Pursuant to Education Code Section 52052, subdivision (a), to provide the Superintendent of Public Instruction, when required, with data pertaining to high school graduation and attendance rates.

B) For those schools which are required, pursuant to Education Code Section 52053, subdivision (j) and/or 52056.5, to participate in the Immediate Intervention/Underperforming School Program and to the extent funding is unavailable or insufficient:

(1) Pursuant to Education Code Section 52054, subdivision (a), to contract with an external evaluator and appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel.

(2) Pursuant to Education Code Section 52054, subdivisions (b) through (i), to assist the external evaluator and schoolsite and community team, as requested or required, in the preparation of an action plan.

(3) Pursuant to Education Code Section 52054.5, to contribute matching funds to any implementation grant provided.

(4) Pursuant to Education Code Section 52055, for those schools which fail to meet their annual short-term growth targets within 12 months following receipt of funding, to hold a public hearing and to consult with

the external evaluator and the schoolsite and community team in choosing interventions in order to continue to implement the action plan.

(5) Pursuant to Education Code Section 52055.51, for those schools which may be deemed a low-performing school pursuant to subdivision (c) of Education Code Section 52055.5 (as it read on January 1, 2001), when required by the Superintendent of Public Instruction, to enter into a contract with a school assistance and intervention team.

(6) Pursuant to Education Code Section 52055.51, subdivision (c), for those schools which are required to enter into a contract with a school assistance and intervention team, to provide support and assistance to enhance the work of the team at the targeted schoolsites.

(7) Pursuant to Education Code Section 52055.51, subdivision (d), for those schools which are required to enter into a contract with a school assistance and intervention team, to adopt the team's recommendations at a regularly scheduled meeting of the governing board and to submit the recommendations to the Superintendent of Public Instruction and the State Board of Education.

(8) Pursuant to Education Code Section 52055.51, subdivision (e), for those schools which have entered into a contract with a school assistance and intervention team, no less than three times during the year, to present the team with data regarding progress toward the goals established by the

team, and to present the data to the governing board, the Superintendent of Public Instruction, and the State Board of Education.

(9) Pursuant to Education Code Section 52058, subdivision (a), by November 30 subsequent to the first full year of action plan implementation, and each November 30 thereafter, to submit an evaluation to the Superintendent of Public Instruction of the impact, costs, benefits and a report as to whether the schools have, or have not, met their growth targets for the program.

C) Pursuant to Education Code Section 44653, for school districts (and not county offices of education) to establish, periodically update and maintain employee payroll records to receive, administer and distribute award moneys to staff, as part of the one-time Certificated Staff Performance Incentive Act.

D) Pursuant to Education Code Section 44651 and Title 5, California Code of Regulations, Section 1034, prior to January 8, 2002, for each school district (and not county offices of education) to complete an application on behalf of its eligible schools to participate in the Certificated Staff Performance Incentive Act which shall include (a) the number of eligible schools, (2) certification that the data used in the API calculations is accurate, and (3) a list of certificated staff positions on an FTE basis at each of the eligible schools. After January 8, 2002, the application shall

certify (a) that the data used in the API calculations from the schools is accurate and (b) to report the number of certificated positions on an FTE basis at each of the eligible schools.

E) Pursuant to Education Code Section 44653, when an award is received as part of the Certificated Staff Performance Incentive Act, for school districts to negotiate with the exclusive representative of the bargaining unit of the teachers and other certificated staff to determine how the funds are to be distributed.

F) Pursuant to Education Code Section 44653, in the event the governing board and the exclusive representative of teachers and other certificated staff do not reach an agreement regarding the distribution of an award under the Certificated Staff Performance Incentive Act or, if the teachers and other certificated staff are not represented by an exclusive bargaining representative, for school districts to calculate and distribute the award amounts as a percentage of base salaries that is determined by dividing the total amount of the award by the sum of the annual base salaries for teachers and other certificated staff of the school.

G) Pursuant to Chapter 71, Statutes of 2000, Section 40, when requested by the Superintendent of Public Instruction, to certify the number of full-time equivalent employees for the period requested in the creation of the one-time Academic Performance Index Schoolsite Employees Performance

Bonus.

H) Pursuant to Chapter 71, Statutes of 2000, Section 40, for school districts and county offices of education to establish, periodically update and maintain employee records to receive, administer and distribute award moneys to staff as part of the Academic Performance Index Schoolsite Employees Performance Bonus.

I) Pursuant to Chapter 71, Statutes of 2000, Section 40 and Title 5, California Code of Regulations, Section 1039, upon receipt of an award from the Governor's Performance Award Program and the school site portion of the Academic Performance Index Schoolsite Employees Performance Bonus award, to consult with the existing school site governance team/school site council to decide the use of such awards and have the distribution plan ratified by the governing board.

J) Pursuant to Education Code Section 44654 and Title 5, California Code of Regulations, Section 1038, the administrative costs to calculate individual salary awards, to determine and locate recipients, and to deliver the individual salary awards.

K) Pursuant to Education Code Section 44654 and Title 5, California Code of Regulations, Section 1038, the cost of compensation-driven benefits, including but not limited to, the employer's share of Medicare, unemployment insurance and worker's compensation incurred as a result

of individual salary awards made pursuant to the Governor's High Achieving Schools Program, the Certificated Staff Performance Incentive Act or the Academic Performance Index Schoolsite Employees Performance Bonus program.

It is estimated that San Juan Unified School District incurred in excess of $200 annually in staffing and other costs from July 1, 2000 through June , 2002 to implement these new duties mandated by the state for which the district has not been reimbursed by any federal, state or local government agency, and for which it cannot otherwise obtain reimbursement.

The foregoing facts are known to me personally and, if so required, I could testify to the statements made herein. I declare under penalty of perjury that the foregoing is true and correct except where stated upon information and belief and, where so stated, I declare that I believe them to be true.

EXECUTED this 24th day of June, 2002, at Carmichael, California.

Diana Halpenny

Diana Halpenny, General Counsel
San Juan Unified School District

EXHIBIT 2
COPIES OF CODE SECTIONS CITED

Article 10.6

CERTIFICATED STAFF PERFORMANCE AWARDS FOR IMPROVED STUDENT ACHIEVEMENT IN UNDERACHIEVING SCHOOLS

Section

44650. Certificated staff performance incentive act; establishment.

44651. Eligibility for funding.

44652. Allocation of funds.

44653. Individual salary award amounts.

44654. Classification of funds and awards; unexpended funds.

Article 10.6 was added by Stats.1999, c. 52 (A.B.1114), § 1, eff. July 1, 1999.

§ 44650. Certificated staff performance incentive act; establishment

(a) The Certificated Staff Performance Incentive Act is hereby established for the purpose of awarding one-time performance awards to teachers and other certificated staff in underachieving schools, where the academic performance of pupils significantly improves beyond the minimum percentage growth target established pursuant to Section 52052.

(b) The State Board of Education shall establish criteria for determining the eligibility of schools to receive the awards and shall determine the amount to be allocated to a school, based on the number of teachers and other certificated staff eligible to receive an award. The maximum award allocated to a school per full-time equivalent certificated staff shall not exceed twenty-five thousand dollars ($25,000). The total amount of the awards allocated under this article shall not exceed the total amount appropriated for the purposes of this article.

(c) This article shall be implemented subject to the appropriation of funds for the purpose of this article in the annual Budget Act.

(Added by Stats.1999, c. 52 (A.B.1114), § 1, eff. July 1, 1999.)

Code of Regulations References

Award programs linked to the Academic Performance Index (API),

Award funding criteria for Certificated Staff Performance Incentive Act, see 5 Cal. Code of Regs. § 1035.

Exemption from indirect costs, see 5 Cal. Code of Regs. § 1038

General eligibility criteria for awards programs related to API growth, see 5 Cal. Code of Regs. § 1032.

§ 44651. Eligibility for funding

(a) Any school district or charter school that maintains classes in kindergarten or any of grades 1 to 12, inclusive, may apply for funding under this article if it meets the conditions of subdivision (b). County boards of education, county superintendents of schools, and state agencies shall not be eligible to participate.

(b) To be eligible for funding under this article, a school shall meet all of the following conditions:

(1) The school's aggregate score for student performance on the state Academic Performance Index established pursuant to Section 52052 was below the 50th percentile relative to other public schools in the state in the prior year.

(2) The school has met the criteria established by the board pursuant to subdivision (b) of Section 44650.

(Added by Stats.1999, c. 52 (A.B.1114), § 1, eff. July 1, 1999.)

Code of Regulations References

ıward programs linked to the Academic Performance lex (API),
Award funding criteria for Certificated Staff Performance Incentive Act, see 5 Cal. Code of Regs. § 1035.
Exemption from indirect costs, see 5 Cal. Code of Regs. § 1038
General eligibility criteria for awards programs related to API growth, see 5 Cal. Code of Regs. § 1032.

14652. Allocation of funds

The Superintendent of Public Instruction shall allocate funds to school districts and charter schools ıt have certified to the superintendent that they satisfy the conditions of subdivision (b) of Section 51, based on the amount determined pursuant to subdivision (b) of Section 44650. At the time of the ocation the Superintendent of Public Instruction shall notify the exclusive representatives of the chers and other certificated staff in each district of the availability of these funds.

lded by Stats.1999, c. 52 (A.B.1114), § 1, eff. July 1, 1999.)

Code of Regulations References

ıward programs linked to the Academic Performance lex (API),
Award funding criteria for Certificated Staff Performance Incentive Act, see 5 Cal. Code of Regs. § 1035.
Exemption from indirect costs, see 5 Cal. Code of Regs. § 1038
General eligibility criteria for awards programs related to API growth, see 5 Cal. Code of Regs. § 1032.

14653. Individual salary award amounts

Upon receiving an allocation from the Superintendent of Public Instruction for the purpose of awarding ards, the governing board of the school district shall negotiate individual teacher and other certificated ff salary award amounts with the exclusive representative of the bargaining unit of the teachers and ıer certificated staff. In the event that the governing board and the exclusive representative of chers and other certificated staff do not reach an agreement regarding the amount of the award or if teachers and other certificated staff are not represented by an exclusive bargaining representative, all chers and other certificated staff at the school shall receive a salary award amount that is equal to a centage of their base salary that is determined by dividing the total amount awarded to a school by sum of the annual base salaries for teachers and other certificated staff of the school.

lded by Stats.1999, c. 52 (A.B.1114), § 1, eff. July 1, 1999.)

14654. Classification of funds and awards; unexpended funds

a) Funds awarded pursuant to this article shall not become part of a district's revenue limit, and shall identified as a separate item of expenditure on any financial reports filed by school districts with the te pursuant to any state law or regulation.

b) Salary award amounts received by teachers and other certificated staff pursuant to this article shall be considered compensation for the purposes of calculating retirement benefits or contributions, or any other benefit that an employee is eligible to receive where the benefit or contribution amount is culated based on compensation.

c) It is the intent of the Legislature that funds appropriated for the purposes of this article shall be ly expended based on the criteria established in subdivision (b) of Section 44650. However, if expended funds are available, they shall continue to be available for allocation for the intended purpose the appropriation in subsequent years.

lded by Stats.1999, c. 52 (A.B.1114), § 1, eff. July 1, 1999.)

Code of Regulations References

ıward programs linked to the Academic Performance ex (API),
Award funding criteria for Certificated Staff Performance Incentive Act, see 5 Cal. Code of Regs. § 1035.
Exemption from indirect costs, see 5 Cal. Code of Regs. § 1038
General eligibility criteria for awards programs related to API growth, see 5 Cal. Code of Regs. § 1032.

Chapter 6.1

PUBLIC SCHOOLS ACCOUNTABILITY ACT OF 1999

Article		Section
1.	Legislative Findings and Intent	52050
2.	Public School Performance Accountability Program	52051
3.	Immediate Intervention/Underperforming Schools Program	52053
3.5.	High Priority Schools Grant Program for Low Performing Schools	52055.600
4.	High Achieving/Improving Schools Program	52056

Chapter 6.1 was added by Stats.1999-2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999.

Former Chapter 6.1, Improvement of Focus Schools, added by Stats.1992, c. 1335 (A.B.171), consisting of §§ 52050 to 52059.7, relating to improvement of focus schools, became inoperative July 1, 1998, and was repealed Jan. 1, 1999, by Stats.1992, c. 1335 (S.B.171), § 1.

Operative Effect

Operative effect of Stats.1992, c. 1335 (S.B.171), see Gov.C. § 17580 and Stats.1992, c. 1335 (S.B.171), §§ 5, 6.

Law Review and Journal Commentaries

Educational opportunity and accountability in an era of standards-based school reform. William S. Koski, 12:2 Stanford L. & Policy Rev. 301 (2001).

Article 1

LEGISLATIVE FINDINGS AND INTENT

Section
52050. Short title.
52050.5. Legislative findings and declaration.

Article 1 was added by Stats.1999-2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999.

Law Review and Journal Commentaries

The public school performance and accountability program: Making the grade. Mary Nebgen, 31 McGeorge L.Rev. 386 (2000).

§ 52050. Short title

This chapter shall be known and may be cited as the Public Schools Accountability Act of 1999.

(Added by Stats.1999–2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999.)

Historical and Statutory Notes

1992 Legislation

Sections 2 and 4 to 6 of Stats.1992, c. 1335, (S.B.171), provide:

"Sec. 2. It is the intent of the Legislature that all new funds allocated as a result of this act supplement, rather than supplant, existing school funds."

"Sec. 4. The State Department of Education shall review the program to improve focus schools, as established under Section 1, and shall report its findings to the Legislature no later than January 1, 1994, and January 1, 1998. These reports shall include, but need not be limited to, the number of schools identified as focus schools, the number and nature of appeals filed and granted, the success rate of identified schools meeting the criteria or improving sufficiently to have been taken out of the program by the Superintendent of Public Instruction, and funding needs to provide the level of services to identified schools that is necessary to assist them in meeting the criteria. The Legislative Analyst shall review the final report issued by the State Department of Education to evaluate the conclusions set forth in that report, and shall submit comments on the report to the education policy and fiscal committees no later than three months after receiving the report.

"Sec. 5. The Legislature intends that implementation of the program established pursuant to Chapter 6.1 (commencing with Section 52050) of Part 28 of the Education Code shall be subject to funding being restored for the California Assessment Program.

"Sec. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund."

Former § 52050, added by Stats.1992, c. 1335 (S.B.171), § 1, relating to legislative findings and intent regarding the improvement of focus schools, became inoperative on July 1, 1998, and was repealed on Jan. 1, 1999, by Stats.1992, c. 1335 (S.B.171), § 1.

§ 52050.5. Legislative findings and declaration

The Legislature finds and declares all of the following:

(a) The purpose of the California public school system is to provide for the academic development of each pupil and prepare each pupil, to the extent of his or her ability, to become a lifelong learner, equipped to live and succeed within the economic and societal complexities of the 21st century.

(b) It is in the interest of the people and the future of this state to ensure that each child in California receives a high quality education consistent with all statewide content and performance standards, as adopted by the State Board of Education, and with a meaningful assessment system and reporting program requirements.

(c) Recent assessments indicate that many pupils in California are not now, generally, progressing at a satisfactory rate to achieve a high quality education.

(d) To remedy this, the state is in need of an immediate and comprehensive accountability system to hold each of the state's public schools accountable for the academic progress and achievement of its pupils within the resources available to schools.

(e) Any promising and effective accountability system must be based upon a constructive and collaborative process that seeks to include stakeholders in the accountability process.

(f) Any promising and effective accountability system requires the active involvement of parents and guardians, pupils, educators, community leaders, school boards, and schoolsite teams.

(g) The statewide school accountability system must encourage the active participation of parents and guardians, pupils, educators, and the local community in improving pupil achievement.

(h) The statewide accountability system must be easily accessible and understandable to parents and others.

(i) The statewide accountability system must include rewards that recognize high achieving schools as well as interventions and, ultimately, sanctions for schools that are continuously low performing.

(j) It is also the intent of the Legislature that the comprehensive and effective school accountability system primarily focus on increasing academic achievement.

(k) To achieve better pupil performance, it is the intent of the Legislature that any school accountability system do all of the following:

(1) Encourage teacher preparation that allows teachers to develop the ability to inspire pupils to become lifelong learners.

(2) Encourage teacher preparation and consistent ongoing professional development that serves to develop competency in content and pedagogy and that allows teachers to effectively involve themselves in promoting school accountability.

(3) Encourage the involvement of the community and its stakeholders in the accountability system.

(4) Encourage local community involvement in providing support for education and identifying causes of pupil failure and designing programs for remediation.

(5) Approach accountability with an attitude of collaboration, encouragement, and correction.

(6) Utilize the state infrastructure to support schools, school districts, and county offices of education in their efforts to improve pupil achievement and progress.

(7) Encourage each local community to support and sustain high-quality educational programs and to build the capacity of educators and schools to succeed in educating every pupil.

(8) Encourage active involvement of parents and guardians in the development and implementation of school accountability systems.

(Added by Stats.1999–2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999.)

Article 2

PUBLIC SCHOOL PERFORMANCE ACCOUNTABILITY PROGRAM

Section	
52051.	Program establishment; components.
52051.5.	Inclusion of charter schools.
52052.	Academic Performance Index; tests incorporated into index; annual percentage growth targets; statewide performance target; use of index; alternative accountability for small schools.
52052.2.	Eligibility for Governor's Performance Awards Program and for participation in the Immediate Intervention/Underperforming Schools Program.
52052.3.	Test scores included in index.
52052.5.	Advisory committee.

Article 2 was added by Stats.1999–2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999.

Law Review and Journal Commentaries

The public school performance and accountability program: Making the grade. Mary Nebgen, 31 McGeorge L.Rev. 386 (2000).

§ 52051. Program establishment; components

The Public School Performance Accountability Program is hereby established and shall consist of the following three component parts:

(a) The state Academic Performance Index, to be known as the API.

(b) The Immediate Intervention/Underperforming Schools Program.

(c) The Governor's High Achieving/Improving Schools Program.

(Added by Stats.1999–2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999.)

Historical and Statutory Notes

1992 Legislation

Operative effect of certain bills requiring reimbursement, see Gov. C. § 17580 and Historical and Statutory Notes under § 52050.

Former § 52051, added by Stats.1992, c. 1335 (S.B.171), § 1, relating to a program to improve public schools, became inoperative on July 1, 1998, and was repealed on Jan. 1, 1999, by Stats.1992, c. 1335 (S.B.171), § 1.

§ 52051.5. Inclusion of charter schools

For purposes of this chapter, all references to schools shall include charter schools.

(Added by Stats.1999–2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999.)

§ 52052. Academic Performance Index; tests incorporated into index; annual percentage growth targets; statewide performance target; use of index; alternative accountability for small schools

(a)(1) By July 1, 1999, the Superintendent of Public Instruction, with approval of the State Board of Education, shall develop an Academic Performance Index (API), to measure the performance of schools, especially the academic performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools.

(2) For purposes of this section, a numerically significant ethnic or socioeconomically disadvantaged subgroup is a subgroup that constitutes at least 15 percent of a school's total pupil population and consists of at least 30 pupils. An ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at a school. For schools whose API scores are based on test scores of no fewer than 11 and no more than 99 pupils, numerically significant subgroups shall be defined by the Superintendent of Public Instruction, with approval by the State Board of Education.

(3) The API shall consist of a variety of indicators currently reported to the State Department of Education including, but not limited to, the results of the achievement test administered pursuant to Section 60640, attendance rates for pupils and certificated school personnel for elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools.

(A) The pupil data collected for the API that comes from the achievement test administered pursuant to Sections 60640 and 60644 and the high school exit examination administered pursuant to Section 60851, when fully implemented, shall be disaggregated by special education status, English language learners, socioeconomic status, gender and ethnic group. Only the test scores of pupils who were enrolled in a school district in the prior fiscal year may be included in the test results reported in the API. Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index.

(B) Before including high school graduation rates and attendance rates in the index, the Superintendent of Public Instruction shall determine the extent to which the data are currently reported to the state and the accuracy of the data.

(C) If the Superintendent of Public Instruction determines that accurate data for these indicators is not available, the Superintendent of Public Instruction shall report to the Governor and the Legislature by September 1, 1999, and recommend necessary action to implement an accurate reporting system.

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The assessment of the applied academic skills matrix test developed pursuant to Section 60604.

(2) The nationally normed test designated pursuant to * * * Section 60642.

(3) The standards-based achievement tests provided for in Section 60642.5.

(4) The high school exit examination.

(c) Based on the API, the Superintendent of Public Instruction shall develop, and the State Board of Education shall adopt, expected annual percentage growth targets for all schools based on their API baseline score * * * from the previous year. Schools are expected to meet these growth targets through effective allocation of available resources. For schools below the statewide API performance target adopted by the State Board of Education pursuant to subdivision (d), the minimum annual percentage growth target shall be 5 percent of the difference between a school's actual API score and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target shall have, as their growth target, maintenance of their API score above the statewide API performance target. However, the State Board of Education may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement. To meet its growth target, a school shall demonstrate that the annual growth in its API is equal to or more than its schoolwide annual percentage growth target and that all numerically significant ethnic and socioeconomically disadvantaged subgroups, as defined in subdivision (a) of Section 52052, are making comparable improvement.

(d) Upon adoption of state performance standards by the State Board of Education, the Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target. When the API is fully developed, schools * * * must, at a minimum, meet their annual API growth targets to be eligible for the Governor's

Performance Award Program as set forth in Section 52057. The State Board of Education may establish additional criteria that schools must meet to be eligible for the Governor's Performance Awards Program.

(e) Beginning in June 2000, the API shall be used for both of the following:

(1) Measuring the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Ranking all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

(f)(1) A comprehensive high school, middle school, or elementary school with 11 to 99 valid test scores of pupils who were enrolled in a school within the same school district in the prior fiscal year shall receive an API score with an asterisk that indicates less statistical certainty than API scores based on 100 or more test scores.

(2) A school under the jurisdiction of a county board of education or a county superintendent of schools, a community day school, or an alternative school, including continuation high schools and opportunity schools, may receive an API score if the school has 11 more or more valid test scores and the school chooses to receive an API score for at least three years.

(3) A school that participates in the Immediate Intervention/ Underperforming Schools Program described in Section 52053 shall receive an API score for the duration of its participation in that program, unless the Superintendent of Public Instruction determines that an API score would be an invalid measure of the school's performance for one or more of the following reasons:

(A) Irregularities in testing procedures occurred.

(B) The data used to calculate the school's API score are not representative of the pupil population at the school.

(C) Significant demographic changes in the school's pupil population render year-to-year comparisons of pupil performance invalid.

(D) The Department of Education discovers or receives information indicating that the integrity of the school's API score has been compromised.

(g) Only * * * schools * * * with 100 or more * * * test scores contributing to the API may be included in the API rankings.

(h) By July 1, 2000, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall develop an alternative accountability system for schools with fewer than 100 * * * test scores contributing to the schools' API scores, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools serving high-risk pupils, including continuation high schools and * * * opportunity schools.

(Added by Stats.1999–2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999. Amended by Stats.2000, c. 695 (S.B.1552), § 1; Stats.2001, c. 745 (S.B.1191), § 24, eff. Oct. 12, 2001; Stats.2001, c. 887 (A.B.1295), § 1.)

Historical and Statutory Notes

1992 Legislation

Former § 52052, added by Stats.1994, c. 937 (S.B.740), § 2, derived from former § 52052, added by Stats.1992, c. 1335 (S.B.171), § 1, relating to identification of focus schools, became inoperative on July 1, 1998, and was repealed on Jan. 1, 1999, by Stats.1992, c. 1335 (S.B.171), § 1.

1994 Legislation

Former § 52052, added by Stats.1992, c. 1335 (S.B.171), § 1, relating to the identification of focus schools, was repealed by Stats.1994, c. 937 (S.B.740), § 1. See, now, this section.

2000 Legislation

Section affected by two or more acts at the same session of the legislature, see Government Code § 9605.

Code of Regulations References

Award programs linked to the Academic Performance Index (API),

Award funding criteria for Certificated Staff Performance Incentive Act, see 5 Cal. Code of Regs. § 1035.

Exemption from indirect costs, see 5 Cal. Code of Regs. § 1038

General eligibility criteria for awards programs related to API growth, see 5 Cal. Code of Regs. § 1032.

§ 52052.2. Eligibility for Governor's Performance Awards Program and for participation in the Immediate Intervention/Underperforming Schools Program

A school that receives an API score with an asterisk shall be eligible for the Governor's Performance Awards Program, as set forth in Section 52057 and for participation in the Immediate Intervention/Underperforming Schools Program, as set forth in Section 52053.

(Added by Stats.2001, c. 887 (A.B.1295), § 2.)

§ 52052.3. Test scores included in index

Test scores of pupils who are in the first year of enrollment in a high school district, but who, in the prior year, were enrolled in an elementary school district that normally matriculates to the high school district, shall be included in the Academic Performance Index, as provided in Section 52052.

(Added by Stats.2000, c. 71 (S.B.1667), § 18, eff. July 5, 2000. Amended by Stats.2000, c. 695 (S.B.1552), § 2.5.)

Historical and Statutory Notes

2000 Legislation

Section 34 of Stats.2000, c. 71 (S.B.1667), provides:

"Notwithstanding Section 42238.1 of the Education Code or any other provision of law, the cost-of-living adjustment for Items 6110-104-0001, 6110-105-0001, 6110-156-0001, 6110-158-0001, 6110-161-0001, 6110-185-0001, 6110-186-0001, 6110-190-0001, 6110-196-0001, 6110-234-0001, and 6110-235-0001 of Section 2.00, and those items identified in subdivision (b) of Section 12.40 of the Budget Act of 2000 and the amount appropriated for the purposes of Section 42243.7 of the Education Code for the 2000-01 fiscal year shall be 3.17 percent. All funds appropriated in the items identified in this section are in lieu of the amounts that would otherwise be appropriated pursuant to any other provision of law."

The 2000 amendment of this section by c. 695 explicitly amended the 2000 addition of this section by c. 71.

Section affected by two or more acts at the same session of the legislature, see Government Code § 9605.

§ 52052.5. Advisory committee

The Superintendent of Public Instruction shall establish a broadly representative and diverse advisory committee to advise the Superintendent of Public Instruction and the State Board of Education on all appropriate matters relative to the creation of the Academic Performance Index and the implementation of the Immediate Intervention/Underperforming Schools Program and the High Achieving/Improving Schools Program. Members of the advisory committee shall serve without compensation for terms not to exceed two years. The State Department of Education shall provide staff to the advisory panel.

(Added by Stats.1999-2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999.)

Article 3

IMMEDIATE INTERVENTION/UNDERPERFORMING SCHOOLS PROGRAM

Section	
52053.	Establishment of program; selection of schools.
52053.5.	Minimum qualifications for external evaluators; standards and criteria to be applied by external evaluators.
52053.7.	Repealed.
52054.	Contracts with external evaluators; duties of evaluator; review and recommendations; action plan; funding.
52054.3.	Election to use existing plan; conditions; modifications to existing plan.
52054.5.	Grants for implementing the program.
52055.	Failure to meet annual short-term growth target; corrective interventions.
52055.5.	Meeting or exceeding growth targets; schools not meeting growth targets but demonstrating significant growth; schools not meeting growth targets and failing to show significant growth.
52055.51.	Schools not meeting growth targets and failing to show significant growth; exception to actions specified in § 52055.

Article 3 was added by Stats.1999-2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999.

Law Review and Journal Commentaries

The public school performance and accountability program: Making the grade. Mary Nebgen, 31 McGeorge L.Rev. 386 (2000).

§ 52053. Establishment of program; selection of schools.

(a) The Immediate Intervention/Underperforming Schools Program is hereby established. By August 15, 1999, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall invite schools that scored below the 50th percentile on the achievement tests administered pursuant to Section 60640 both in the spring of 1998 and in the spring of 1999 to participate in the Immediate Intervention/Underperforming Schools Program. A school invited to participate may take any action not otherwise prohibited under state or federal law and that would not require reimbursement by the Commission on State Mandates to improve pupil performance.

(b) The total number of schools participating in the program in 1999 shall be 430. Unless subdivision (d) applies, schools that apply will be selected based on the order in which they apply within ranks of deciles, not to exceed 86 per decile, within the following grade level categories:

(1) No more than 301 elementary schools.

(2) No more than 78 middle schools.

(3) No more than 52 high schools.

(c) The 86 schools selected within each decile range pursuant to subdivision (b) shall proportionately represent elementary, middle, and high schools and shall provide statewide proportionate geographic representation of urban and rural schools.

(d) If fewer than the number of schools in any grade level category apply, schools that scored below the 50th percentile in those grade level categories that did not apply for the program shall randomly be selected by the Superintendent of Public Instruction, with the approval of the State Board of Education, to participate based on their proportional representation in the state until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(e) If more than the requisite number of schools apply for any grade level category, the Superintendent of Public Instruction shall select an array of schools that reflect a broad range of academic performance of schools that scored below the 50th percentile, until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(f) A school selected to participate on or before September 1, 1999, shall be awarded a planning grant from funds appropriated pursuant to paragraph (1) of subdivision (a) of Section 2 of the act adding this section in the amount of fifty thousand dollars ($50,000). A school selected to receive federal funds pursuant to paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall be awarded an implementation grant in an amount of at least fifty thousand dollars ($50,000) pursuant to Public Law 105–78.

(g) Schools receiving funding under paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall comply with Public Law 105–78.

(h) By September 15, 2000, and each year thereafter, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall identify schools that failed to meet their Academic Performance Index (API) growth targets and that have an API score below the 50th percentile in the previous school year relative to all other public elementary, middle or high schools. The Superintendent of Public Instruction shall invite these schools to participate in the Immediate Intervention/Underperforming Schools Programs. A school invited to participate may take any action to improve pupil performance not otherwise prohibited under state or federal law and that would not require reimbursement by the Commission on State Mandates.

(i) The total number of schools selected for participation in the program shall be no more than the number that can be funded through the total appropriation for the planning grants referenced in subdivision (*l*) below.

(j) If fewer schools apply for participation than can be funded, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall randomly select the balance of schools from schools eligible to participate that did not apply. Insofar as possible, the schools randomly selected should reflect a representative proportion of elementary, middle and high schools, as well as a broad range of academic achievement.

(k) If more schools apply for participation than can be funded, the schools shall be selected on the order in which they apply. Insofar as possible, the schools * * * selected should reflect a representative proportion of elementary, middle and high schools, as well as a broad range of academic achievement.

(l) A school selected to participate on or before October 15, 2000, and each year thereafter, shall be awarded a planning grant from funds appropriated pursuant to this act of fifty thousand dollars ($50,000).

(m) Schools selected for participation in the program shall be notified by the Superintendent of Public Instruction no later than October 15 of each year.

(Added by Stats.1999–2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999. Amended by Stats.2000, c. 695 (S.B.1552), § 2; Stats.2001, c. 887 (A.B.1295), § 3.)

Historical and Statutory Notes

1992 Legislation

Section 3 of Stats.1992, c. 1335 (S.B.171), provides:

"It is the intent of the Legislature that funding be provided in future Budget Acts for the purposes of Sections 52053, 52054.5, 52056.5, and 52059 of, and paragraphs (1) to (3), inclusive, of subdivision (a), paragraphs (1) and (3) of subdivision (b), and subdivisions (e) and (f) of Section 52058 of, the Education Code. Grants shall be provided to school districts for their expenses incurred pursuant to paragraph (2) of subdivision (a) of Section 52058. The Superintendent of Public Instruction and the State Department of Education shall only be required to implement the provisions enumerated in this section in fiscal years in which sufficient funds have been appropriated for those purposes."

Former § 52053, added by Stats.1992, c. 1335 (S.B.171), § 1, amended by Stats.1994, c. 937 (S.B.740), § 3, relating to identification of focus schools, frequency of evaluation of schools, etc., became inoperative on July 1, 1998, and was repealed on Jan. 1, 1999, by Stats.1992, c. 1335 (S.B.171), § 1.

1994 Legislation

Section 7 of Stats.1994, c. 937 (S.B.740), provides:

"It is the intent of the Legislature that funding be provided in future Budget Acts for the purposes of Sections 52053, 52054.5, 52056.5, subdivisions (a), (b), (e), and (f) of Section 52058, and Section 52059 of the Education Code. Grants shall be provided to school districts for the expenses incurred by the school districts pursuant to paragraph (2) of subdivision (a) of Section 52058 of the Education Code. The Superintendent of Public Instruction and the State Department of Education shall only be required to implement the provisions enumerated in this section in fiscal years in which sufficient funds have been appropriated for those purposes."

§ 52053.5. Minimum qualifications for external evaluators; standards and criteria to be applied by external evaluators

(a) The Superintendent of Public Instruction shall develop, and the State Board of Education shall approve, the minimum qualifications for external evaluators that shall include, but may not be limited to, recent successful professional, managerial or governing board experience in improving school achievement, and the ability to assist the school to systematically align curriculum, instruction, and assessment. The external evaluators shall also have demonstrated experience in working with diverse populations. With the approval of the State Board of Education, the Superintendent of Public Instruction shall develop and disseminate an application process by which to establish a list of external evaluators that meet the minimum qualifications. The list of approved external evaluators may include private sector experts, institutions of higher education, county offices of education, and educational consortia.

(b) The Superintendent of Public Instruction shall develop, and the State Board of Education shall approve, the standards and criteria to be applied by external evaluators in carrying out their duties. The standards and criteria shall include, but are not limited to, the following areas:

(1) Governing board policies.

(2) Curriculum management.

(3) Fiscal management.

(4) Parental and community involvement.

(5) Personnel management.

(6) Facilities management.

(Added by Stats.1999–2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999.)

Historical and Statutory Notes

1992 Legislation

Former § 52053.5, added by Stats.1992, c. 1335 (S.B. 171), § 1, relating to notice to parents that a school has been identified as a focus school, became inoperative on July 1, 1998, and was repealed on Jan. 1, 1999, by Stats.1992, c. 1335 (S.B.171), § 1.

§ 52053.7. Repealed by Stats.1992, c. 1335 (S.B.171), § 1, operative Jan. 1, 1999

Historical and Statutory Notes

The repealed section, added by Stats.1994, c. 937 (S.B. 740), § 4, relating to findings and declarations regarding focus schools, became inoperative July 1, 1998.

§ 52054. Contracts with external evaluators; duties of evaluator; review and recommendations; action plan; funding

(a) By November 15 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program shall contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

(b) The selected external evaluator shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator shall do all of the following:

(1) Inform the parents and legal guardians, in writing, that the school has been selected to participate in the Immediate Intervention/Underperforming Schools Program due to its below average performance.

(2) Hold a public meeting at the school, in cooperation with the principal, to which all parents and legal guardians of pupils in the school receive a written invitation. The invitation to the meeting may be combined with the written notice required by paragraph (1).

(3) Solicit, at the public meeting, the recommendations and opinions of the participating parents and legal guardians of pupils in the school regarding actions that should be taken to improve the performance of the school. These opinions and recommendations shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section.

(4) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By February 15 of the school year in which the school is selected to participate, the selected external evaluator, in collaboration with the broad-based schoolsite and community team selected pursuant to subdivision (a), shall complete a review of the school that identifies weaknesses that contribute to the school's below average performance, make recommendations for improvement, and begin to develop an action plan to improve the academic performance of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the State Board of Education pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a scope that requires reimbursement by the Commission on State Mandates for its implementation.

(d) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

(2) Identify the current barriers at the school and district toward improvements in pupil achievement.

(3) Identify schoolwide and districtwide strategies to remove these barriers.

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding the achievement of English language learners, pupils with exceptional needs, pupils who qualify for free and reduced price meals, and pupils * * * <u>in numerically significant subgroups</u>.

(6) Set short-term academic objectives pursuant to Section 52052 for a two-year period that will allow the school to make adequate progress toward the growth targets established for each participating school for pupil achievement as measured by all of the following to the extent that the data is available for the school:

(A) The achievement test administered pursuant to Section 60640.

(B) Graduation rates for grades 7 to 12, inclusive.

(C) Attendance rates for pupils and school personnel for elementary, middle, and secondary schools.

(D) Any other indicators approved by the State Board of Education.

(e) The school action plan shall focus on improving pupil academic performance, improving the involvement of parents and guardians, improving the effective and efficient allocation of resources and management of the school, and identifying and developing solutions that take into account the underlying causes for low performance by pupils.

(f) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(g) The school action plan may propose to increase the number of instructional days offered at the schoolsite and also may propose to increase up to a full 12 months the amount of time for which certificated employees are contracted, if all of the following conditions are met:

(1) Provisions of the plan proposed pursuant to this subdivision shall not violate current applicable collective bargaining agreements.

(2) An agreement is reached with the exclusive representative concerning staffing specifically to accommodate the extended school year or 12-month contract.

(h) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(i) Upon its completion, the action plan shall be submitted to the governing board of the school districts for its approval. After the plan is approved, but no later than May 15 of the year that follows the year the school is selected to participate, the plan shall be submitted to the Superintendent of Public Instruction with a request for funding in the form prescribed by the Superintendent of Public Instruction, who shall review the school action plan and recommend approval or disapproval of the school's request for funding to the State Board of Education.

(j) Not later than July 15 of the year next following the year in which a school is selected for participation, the State Board of Education shall review and approve or disapprove the school's request for funding, based on the recommendation of the Superintendent of Public Instruction. Within 30 days of the State Board of Education's review, the Superintendent of Public Instruction shall notify the effected school districts of the state of the board's action regarding the request for funding. In conjunction with its approval of a request for funding to implement a school's action plan, the State Board of Education may, at the request of the governing board of the school district or the county board of education for a school under its jurisdiction, waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300.

(Added by Stats.1999-2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999. Amended by Stats.2000, c. 190 (A.B.2162), § 1; Stats.2000, c. 695 (S.B.1552), § 3; Stats.2001, c. 159 (S.B.662), § 73; Stats.2001, c. 749 (A.B.961), § 2, eff. Oct. 12, 2001; Stats.2001, c. 887 (A.B.1295), § 4.)

Historical and Statutory Notes

1992 Legislation

Former § 52054, added by Stats.1992, c. 1335 (S.B.171), § 1, relating to instructional improvement teams, became inoperative on July 1, 1998, and was repealed on Jan. 1, 1999, by Stats.1992, c. 1335 (S.B.171), § 1.

2001 Legislation

Subordination of legislation by Stats.2001, c. 159 (S.B. 662), to other 2001 legislation, see Historical and Statutory Notes under Business and Professions Code § 27.

Section affected by two or more acts at the same session of the legislature, see Government Code § 9605.

Appropriations, legislative intent and urgency effective provisions relating to Stats.2001, c. 749 (A.B.961), see Historical and Statutory Notes under Education Code § 51101.

Governor's reduction message regarding Stats.2001, c. 749 (A.B.961), see Historical and Statutory Notes under Education Code § 51101.

For letter of intent relating to A.B. 961 (Stats.2001, c. 749) and A.B. 466 (Stats.2001, c. 737) concerning the relationship of the High Priority Schools Grant Program for Low Performing Schools (HPSGP) to existing law, see Historical and Statutory Notes under Education Code § 51101.

§ 52054.3. Election to use existing plan; conditions; modifications to existing plan

A school selected on or after September 2001 may elect to use an existing plan instead of the action plan required pursuant to Section 52054 if that plan meets the requirements specified pursuant to subdivisions (c), (d), (e), (f), (g), (h), and (i) of Section 52054. If an existing plan needs modification, the external evaluator or entity with which the school district contracts pursuant to Section 52054 shall provide technical assistance in making those modifications.

(Added by Stats.2001, c. 749 (A.B.961), § 3, eff. Oct. 12, 2001.)

Historical and Statutory Notes

2001 Legislation

Appropriations, legislative intent and urgency effective provisions relating to Stats.2001, c. 749 (A.B.961), see Historical and Statutory Notes under Education Code § 51101.

For letter of intent relating to A.B. 961 (Stats.2001, c. 749) and A.B. 466 (Stats.2001, c. 737) concerning the relationship of the High Priority Schools Grant Program for Low Performing Schools (HPSGP) to existing law, see Historical and Statutory Notes under Education Code § 51101.

Governor's reduction message regarding Stats.2001, c. 749 (A.B.961), see Historical and Statutory Notes under Education Code § 51101.

§ 52054.5. Grants for implementing the program

* * * Subject to the appropriation of funds for this purpose in the Budget Act, a school whose application is approved shall receive a grant for implementing the program, in each subsequent fiscal year that it participates in the program, in an amount up to two hundred dollars ($200) per pupil enrolled in the school, with a minimum allocation of fifty thousand dollars ($50,000) per schoolsite. * * * As a condition of receiving this funding, a participating school or the school district having jurisdiction over that school shall match the amount of state funding from any new or existing sources of funding. To help meet this matching requirement, a participating school and the governing board of the school district having jurisdiction over that school shall receive maximum flexibility in the expenditure of any new or existing categorical funds not otherwise prohibited by state or federal law and shall redirect for the purposes of their academic improvement plan new or existing categorical or general purpose funds.

(Added by Stats.1999–2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999. Amended by Stats.2000, c. 695 (S.B.1552), § 4.)

Historical and Statutory Notes

1992 Legislation

Former § 52054.5, added by Stats.1992, c. 1335 (S.B. 171), § 1, relating to school assistance cadre, became inoperative on July 1, 1998, and was repealed on Jan. 1, 1999, by Stats.1992, c. 1335 (S.B.171), § 1.

§ 52055. Failure to meet annual short-term growth target; corrective interventions

The governing board of a school that fails to meet its annual short-term growth target within 12 months following receipt of funding pursuant to Section 52054.5 shall hold a public hearing at a regularly scheduled meeting to ensure that members of the school community are aware of the lack of progress. The governing board of the school district shall, upon consultation with the external evaluator and the schoolsite and community team selected pursuant to Section 52054, choose from a range of interventions for the school, including reassignment of school personnel to the extent authorized by law, negotiation of site-specific amendments to collective bargaining agreements, or other changes deemed appropriate, in order to continue implementing the action plan approved pursuant to Section 51054, and to make progress toward meeting the school's growth target.

(Added by Stats.1999–2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999. Amended by Stats.2000, c. 695 (S.B.1552), § 5.)

Historical and Statutory Notes

1992 Legislation

Former § 52055, added by Stats.1992, c. 1335 (S.B.171), § 1, relating to school action plans, became inoperative on July 1, 1998, and was repealed on Jan. 1, 1999, by Stats.1992, c. 1335 (S.B.171), § 1.

§ 52055.5. Meeting or exceeding growth targets; schools not meeting growth targets but demonstrating significant growth; schools not meeting growth targets and failing to show significant growth

* * * (a) Twenty-four months after receipt of funding pursuant to Section 52054.5, a school that has not met its growth targets each year, but demonstrates significant growth, as determined by the State

Board of Education, shall continue to participate in the program for an additional year and to receive funding in the amount specified in Section 52054.5. Thirty-six months after receipt of funds pursuant to Section 52054.5, a school is no longer eligible to receive funding pursuant to that section.

* * * (b) Twenty-four months after receipt of funding pursuant to Section 52054.5, a school that has not met its growth targets * * * each year and has failed to show significant growth, as determined by the State Board of Education, shall be deemed a low-performing school. Notwithstanding any other provision of law, the Superintendent of Public Instruction shall assume all the legal rights, duties, and powers of the governing board with respect to that school. The Superintendent of Public Instruction, in consultation with the State Board of Education and the governing board of the school district, shall reassign the principal of that school subject to the findings in subdivision (d). In addition to reassigning the principal, the Superintendent of Public Instruction, in consultation with the State Board of Education, shall, notwithstanding any other provision of law, do at least one of the following:

(1) Revise attendance options for pupils to allow them to attend any public school in which space is available. If additional attendance options are made available, nothing in this option shall be construed to require either the sending or receiving school district to incur additional transportation costs.

(2) Allow parents to apply directly to the State Board of Education for the establishment of a charter school and allow parents to establish the charter school at the existing schoolsite.

(3) Under the supervision of the Superintendent of Public Instruction, assign the management of the school to a college, university, county office of education, or other appropriate educational institution. However, the Superintendent of Public Instruction may not assume the management of the school.

(4) Reassign other certificated employees of the school.

(5) Renegotiate a new collective bargaining agreement at the expiration of the existing collective bargaining agreement.

(6) Reorganize the school.

(7) Close the school.

(c) In addition to the actions listed in subdivision (b), the Superintendent of Public Instruction, in consultation with the State Board of Education, may take any other action considered necessary or desirable against the school district or the school district governing board, including appointment of a new superintendent or suspension of the authority of the governing board with respect to the school or schools identified pursuant to subdivision (b).

(d) Before the Superintendent of Public Instruction may take any action against a principal pursuant to subdivision (b), the Superintendent of Public Instruction or a designee of the superintendent shall hold a public hearing on the matter in the school district and make both of the following findings:

(1) A finding that the principal had the authority to take specific enumerated actions that would have helped the school meet its performance goals.

(2) A finding that the principal failed to take specific enumerated actions pursuant to paragraph (1).

(e) A school that has not met its growth targets within 36 months of receiving funding pursuant to Section 52054.5, but has shown significant growth, as determined by the State Board of Education, shall continue to be monitored by the Superintendent of Public Instruction until it meets its annual growth target or the statewide performance target. If, in any year between the third year of implementation funding and the first year the school meets its growth target, the school fails to make significant growth, as determined by the State Board of Education, that school shall be deemed a low-performing school and subject to the provisions of paragraphs (1) to (7), inclusive, of subdivision (b).

(f) An action taken pursuant to subdivision (b), (c), or (d) * * * shall not increase local costs or require reimbursement by the Commission on State Mandates.

(g) An action taken pursuant to subdivision ((b), (c), or (d) * * * shall be accompanied by specific findings by the Superintendent of Public Instruction and the State Board of Education that the action is directly related to the identified causes for continued failure by a school to meet its performance goals.

(Added by Stats.1999–2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999. Amended by Stats.2000, c. 695 (S.B.1552), § 6; Stats.2001, c. 887 (A.B.1295), § 5.)

§ 52055.51. Schools not meeting growth targets and failing to show significant growth; exception to actions specified in § 52055

(a) Instead of the actions specified in subdivision (c) of Section 52055.5, as that section read on January 1, 2001, and notwithstanding any other provision of law, the Superintendent of Public Instruction, with the approval of the State Board of Education, may require the district to enter into a contract with a school assistance and intervention team.

(b) Team members should possess a high degree of knowledge and skills in the areas of school leadership, curriculum, and instruction aligned to state academic content and performance standards, classroom management and discipline, academic assessment, parent-school relations, and evaluation and research-based reform strategies and have proven successful expertise specific to the challenges inherent in low-performing schools.

(c) The team shall provide intensive support and expertise to implement the school reform initiatives in the plan. Decisions about interventions shall be data driven. A school assistance and intervention team shall work with school staff, site planning teams, administrators, and district staff to improve pupil literacy and achievement by assessing the degree of implementation of the current action plan, refining and revising the action plan, and making recommendations to maximize the use of fiscal resources and personnel in achieving the goals of the plan. The district shall provide support and assistance to enhance the work of the team at the targeted schoolsites.

(d) Not later than 60 days after the school's API becomes public, the team must have completed an initial report. The report shall include recommendations for corrective actions chosen from a range of interventions, including the reallocation of district fiscal resources to ensure that appropriate resources are targeted to those specific interventions identified in the recommendations of the team for the targeted schools and other changes deemed appropriate to make progress toward meeting the schools growth target. Not later than 90 days after the API is made public, the governing board of the school district shall adopt the team's recommendations at a regularly scheduled meeting of the governing board. The governing board may not place the adoption on the consent calendar. The report shall be submitted to the Superintendent of Public Instruction and State Board of Education.

(e) No less than three times during the year, the school district and schoolsite shall present the team with data regarding progress toward the goals established by the team's initial assessment. The data shall be presented to the governing board of the school district at a regularly scheduled meeting. The team shall, to the extent possible, utilize existing site data. The data shall also be provided to the Superintendent of Public Instruction and State Board of Education. Every effort shall be made to report this data in a manner that minimizes the length and complexity of the reporting requirement in order to maximize the focus on improving pupil literacy and achievement.

(f) An action taken pursuant to this paragraph shall not increase local costs or require reimbursement by the Commission on State Mandates.

(Added by Stats.2001, c. 749 (A.B.961), § 4, eff. Oct. 12, 2001.)

Historical and Statutory Notes

2001 Legislation

Appropriations, legislative intent and urgency effective provisions relating to Stats.2001, c. 749 (A.B.961), see Historical and Statutory Notes under Education Code § 51101.

For letter of intent relating to A.B. 961 (Stats.2001, c. 749) and A.B. 466 (Stats.2001, c. 737) concerning the relationship of the High Priority Schools Grant Program for Low Performing Schools (HPSGP) to existing law, see Historical and Statutory Notes under Education Code § 51101.

Governor's reduction message regarding Stats.2001, c. 749 (A.B.961), see Historical and Statutory Notes under Education Code § 51101.

Article 4

HIGH ACHIEVING/IMPROVING SCHOOLS PROGRAM

Section

52056. High Achieving/Improving Schools Program; establishment; annual ranking of schools; report; discussion of results.

52056.5. Failure to meet growth targets; intervention.

52056.6. Repealed.

Section

52057. Governor's Performance Awards Program; eligibility; awards; waiver of certain provisions; expenditure of funds.

52058. Evaluation report by schools; evaluation of programs; schedule for biennial evaluations.

52059 to 52059.7. Repealed.

Article 4 was added by Stats.1999-2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999.

Law Review and Journal Commentaries

The public school performance and accountability program: Making the grade. Mary Nebgen, 31 McGeorge L.Rev. 386 (2000).

§ 52056. High Achieving/Improving Schools Program; establishment; annual ranking of schools; report; discussion of results

(a) The High Achieving/Improving Schools Program is hereby established. Commencing in June 2000, and every June thereafter, the Superintendent of Public Instruction, with approval of the State Board of Education, shall rank all public schools based on the Academic Performance Index established pursuant to Section 52052. The schools shall be ranked by the value of the API in decile categories by grade level of instruction provided and shall include three categories: elementary, middle, and high school. The schools shall also be ranked by the value of the API when compared to schools with similar characteristics. Commencing in June 2001, the * * * Superintendent of Public Instruction shall also report the target annual growth rates of schools, and the actual growth rates attained by the schools * * *. For purposes of this section, similar characteristics include, but are not limited to, the following characteristics, insofar as data is available from the State Department of Education's data: pupil mobility, pupil ethnicity, pupil socioeconomic status, percentage of teachers who are fully credentialed, percentage of teachers who hold emergency credentials, percentage of pupils who are English language learners, average class size per grade level, and whether the schools operate multitrack year-round educational programs. The Superintendent of Public Instruction shall annually publish these rankings on the Internet.

(b) * * * All schools shall report their ranking, including a description of the components of the API, in their annual school accountability report card pursuant to Sections 33126 and 35256.

(c) * * * Following the annual publication of the API and school rankings by the Superintendent of Public Instruction, the governing board of each school district shall discuss the results of the annual ranking at * * * the next regularly scheduled meeting.

(Added by Stats.1999-2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999. Amended by Stats.2000, c. 695 (S.B.1552), § 7.)

Historical and Statutory Notes

1992 Legislation

Former § 52056, added by Stats.1992, c. 1335 (S.B.171), § 1, relating to a needs assessment and school plan, became inoperative on July 1, 1998, and was repealed on Jan. 1, 1999, by Stats.1992, c. 1335 (S.B.171), § 1.

§ 52056.5. Failure to meet growth targets; intervention

Commencing with the 2000–01 fiscal year, a school that fails to meet annual state growth targets established pursuant to Section 52052 may, as determined by the Superintendent of Public Instruction with the approval of the State Board of Education, be subject to the Immediate Intervention/Underperforming Schools Program pursuant to subdivisions (e) and (f) of Section 52053, and Sections 52053.5, 52054, 52054.5, 52055, and 52055.5.

(Added by Stats.1999–2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999.)

Historical and Statutory Notes

1992 Legislation

Former § 52056.5, added by Stats.1992, c. 1335 (S.B. 171), § 1, relating to contracts for assistance with the improvement program, became inoperative on July 1, 1998, and was repealed on Jan. 1, 1999, by Stats.1992, c. 1335 (S.B.171), § 1.

§ 52056.6. Repealed by Stats.1992, c. 1335 (S.B.171), § 1, operative Jan. 1, 1999

Historical and Statutory Notes

The repealed section, added by Stats.1992, c. 1335 (S.B. 171), § 1, amended by Stats.1994, c. 937 (S.B.740), § 5, relating to program improvement schools identified as focus schools, became inoperative July 1, 1998.

§ 52057. Governor's Performance Awards Program; eligibility; awards; waiver of certain provisions; expenditure of funds

(a) The State Board of Education shall establish a Governor's Performance Award Program to provide monetary and nonmonetary awards to schools that meet or exceed API performance growth targets established pursuant to Section 52052, and demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools. Monetary awards shall be awarded only to schools whose API scores meet or exceed their API growth target as established pursuant to Section 52052 or increase by five points, whichever is greater, and in which all numerically significant subgroups' scores meet or exceed 80 percent of the school's API growth target as established pursuant to Section 52052 or increase by four points, whichever is greater. For purposes of this section, an ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at a school.

(b) All schools, including schools participating in the Immediate Intervention/Underperforming Schools Program are eligible to participate in the Governor's Performance Award Program. The manner and form in which the monetary and nonmonetary awards are given shall be established by the Superintendent of Public Instruction and approved by the State Board of Education. The monetary awards shall be made available on either a per pupil or per school basis, not to exceed one hundred fifty dollars ($150) per pupil * * * who received a score on the assessments described in subdivision (b) of Section 60640 and subject to funds appropriated in the annual Budget Act. A school that continues to show improvement in successive years is eligible to receive annual bonuses.

(c) In addition to or in substitution of monetary awards, the Superintendent of Public Instruction may establish, upon approval by the State Board of Education, nonmonetary awards that may include, but are not limited to, classification as a distinguished school, listing on a published public school honor roll, and public commendations by the Governor and the Legislature.

(d) A governing board of a school district or a county board of education with one or more schools under its jurisdiction that are eligible to receive an award from the Governor's Performance Award Program may request on behalf of those schools that the State Board of Education waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000. The board may grant the request if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300. The waiver shall be granted for no more than three consecutive fiscal years. A governing board of a school district or a county board of education may request a renewal for schools under their jurisdiction that still meet the eligibility criteria.

(e) The waiver granted pursuant to subdivision (d) of Section 52057 may also provide the governing board of a school district or a county board of education with maximum flexibility, on the part of eligible schools within the districts, in the expenditure of any new or existing categorical funds not otherwise prohibited under state or federal law to enable the school to continue improvement in pupil performance.

(Added by Stats.1999–2000, 1st Ex.Sess., c. 3 (S.B.1), § 1, eff. June 25, 1999. Amended by Stats.2000, c. 695 (S.B.1552), § 8; Stats.2001, c. 891 (S.B.735), § 21, eff. Oct. 14, 2001.)

Historical and Statutory Notes

1992 Legislation

Former § 52057, added by Stats.1992, c. 1335 (S.B.171), § 1, relating to completion of phase 1 of the improvement program, became inoperative on July 1, 1998, and was repealed on Jan. 1, 1999, by Stats.1992, c. 1335 (S.B.171), § 1.

2000 Legislation

An amendment of this section by § 8.5 of Stats.2000, c. 695 (S.B.1552), failed to become operative under the provisions of § 12 of that Act.

2001 Legislation

Governor's reduction message regarding Stats.2001, c. 891 (S.B.735), see Historical and Statutory Notes under Education Code § 10554.

Code of Regulations References

Award programs linked to the academic performance index (API),

Award funding criteria for Certificated Staff Performance Incentive Act, see 5 Cal. Code of Regs. § 1035.

Award funding criteria for governor's performance award program and Academic Performance Index schoolsite employees performance bonus, see 5 Cal. Code of Regs. § 1033

General eligibility criteria for awards programs related to API growth, see 5 Cal. Code of Regs. § 1032.

§ 52058. Evaluation report by schools; evaluation of programs; schedule for biennial evaluations

(a) Each school district with schools participating in the Immediate Intervention/Underperforming Schools Program established pursuant to Section 52053 and the High Priority Schools Grant Program for Low Performing Schools established pursuant to Section 52055.600 shall submit to the Superintendent of Public Instruction an evaluation of the impact, costs, and benefits of the program as it relates to the school district and the schools under its jurisdiction that are participating in the program and whether or not the schools met their growth targets, with an analysis of the reasons why the schools have or have not met those growth targets. Costs to develop and submit the evaluation shall be funded with resources provided pursuant to Article 3 (commencing with Section 52053). The evaluation shall be submitted by November 30, subsequent to the first full year of action plan implementation by participating schools, and on November 30, of each year thereafter.

(b) By January 15, 2000, the Superintendent of Public Instruction shall develop, and the State Board of Education shall approve, the guidelines for a request for proposal for an independent evaluator as described in this subdivision. By September 1, 2000, the Superintendent of Public Instruction shall contract with an independent evaluator to prepare a comprehensive evaluation of the implementation, impact, costs, and benefits of the Immediate Intervention/Underperforming Schools Program, the High Priority Schools Grant Program for Low Performing Schools, and the High Achieving/ Improving Schools Program. The preliminary results of the evaluation shall be disseminated to the Legislature, the Governor, and interested parties no later than March 31, 2002, with a final report no later than June 30, 2002. The final report shall include recommendations for necessary or desirable modifications to the programs established pursuant to this chapter.

(c) The evaluations shall consider all of the following:

(1) Pupil performance data, including, but not limited to, results of assessments used to determine whether or not schools have made significant progress towards meeting their growth targets.

(2) Program implementation data, including, but not limited to, a review of startup activities, community support, parental participation, staff development activities associated with implementation of the program, percentage of fully credentialed teachers, percentage of teachers who hold emergency credentials, percentage of teachers assigned outside their subject area of competence, the accreditation status of the school if appropriate, average class size per grade level, and the number of pupils in a multitrack year-round educational program.

(3)(A) Pupil performance data, and its impact on the API, for each of the following subgroups:

(i) English language learners.

EXHIBIT 3
COPIES OF STATUTES CITED

SCHOOLS AND SCHOOL DISTRICTS—GOVERNOR'S PERFORMANCE AWARD PROGRAM

CHAPTER 887

A.B. No. 1295

AN ACT to amend Sections 52052, 52053, 52054, and 52055.5 of, and to add Section 52052.2 to, the Education Code, relating to school performance.

[Filed with Secretary of State October 14, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1295, Thomson. School performance: Academic Performance Index.

Existing law requires the Superintendent of Public Instruction (SPI) to develop an Academic Performance Index (API) to measure the performance of schools. The superintendent is required to develop growth targets for all schools and statewide API performance targets, based on the API. Existing law provides that, when the API is fully developed, schools may either meet the state target or meet their growth target to be eligible for the Governor's Performance Award Program, a program of monetary and nonmonetary awards to schools.

This bill would delete the provision by which schools that meet the state target are eligible for the Governor's Performance Award Program and would require a school, including a school participating in the Immediate Intervention/Underperforming Schools Program, to

meet, at a minimum, its annual API growth target to be eligible for that program. The bill would authorize the State Board of Education to establish additional criteria that schools must meet to be eligible for the program.

Existing law defines "numerically significant subgroup," for purposes of measuring academic performance on the API.

This bill would authorize the SPI to define "numerically significant subgroup" for schools whose API score is based on test scores of no fewer than 11 and no more than 99 pupils.

Existing law provides that only comprehensive high schools, middle schools, and elementary schools with 100 or more pupils may be included in the API ranking.

This bill would provide that only schools with 100 or more test scores contributing to the API may be included in the API ranking and would provide for API scores for specified types and sizes of schools, as described.

Existing law establishes the Immediate Intervention/Underperforming Schools Program (II/USP), to which underperforming schools may apply for participation. Existing law requires schools participating in the II/USP to develop action plans to improve the academic performance of pupils enrolled in the school, and, among other things, requires the action plan to examine and consider disaggregated data providing information regarding the achievement of all pupils by race, ethnicity, and gender.

This bill would instead require the action plan to examine and consider disaggregated data providing information regarding the achievement of pupils in numerically significant subgroups.

Existing law provides that, 24 months after receipt of funding under the II/USP, a school that has met or exceeded its growth target each year is required to receive an award under the Governor's Performance Award Program.

This bill would delete this provision. The bill would also require the Superintendent of Public Instruction to continue to monitor a school that has not met its growth targets within 36 months of receiving funding under the II/USP until the school meets its annual growth target or the statewide performance target. If, in any year between the third year of implementation funding under the II/USP and the first year the school meets its growth target and a school fails to make significant progress, as determined by the State Board of Education, the bill would require that school to be deemed a low-performing school. The bill would also provide that monetary awards would only be awarded to schools that meet or exceed API performance or growth targets or increase by 5 points, whichever is greater.

The people of the State of California do enact as follows:

SECTION 1. Section 52052 of the Education Code is amended to read:

52052. (a)(1) By July 1, 1999, the Superintendent of Public Instruction, with approval of the State Board of Education, shall develop an Academic Performance Index (API), to measure the performance of schools, especially the academic performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools.

(2) For purposes of this section, a numerically significant ethnic or socioeconomically disadvantaged subgroup is a subgroup that constitutes at least 15 percent of a school's total pupil population and consists of at least 30 pupils. An ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at a school. <u>For schools whose API scores are based on test scores of no fewer than 11 and no more than 99 pupils, numerically significant subgroups shall be defined by the Superintendent of Public Instruction, with approval by the State Board of Education.</u>

(3) The API shall consist of a variety of indicators currently reported to the State Department of Education including, but not limited to, the results of the achievement test administered pursuant to Section 60640, attendance rates for pupils and certificated school personnel for elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools.

(A) The pupil data collected for the API that comes from the achievement test administered pursuant to Sections 60640 and 60644 and the high school exit examination administered pursuant to Section 60851, when fully implemented, shall be disaggregated by special education status, English language learners, socioeconomic status, gender and ethnic group. Only the test scores of pupils who were enrolled in a school district in the prior fiscal year may be included in the test results reported in the API. Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index.

(B) Before including high school graduation rates and attendance rates in the index, the Superintendent of Public Instruction shall determine the extent to which the data are currently reported to the state and the accuracy of the data.

(C) If the Superintendent of Public Instruction determines that accurate data for these indicators is not available, the Superintendent of Public Instruction shall report to the Governor and the Legislature by September 1, 1999, and recommend necessary action to implement an accurate reporting system.

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The assessment of the applied academic skills matrix test developed pursuant to Section 60604.

(2) The nationally normed test designated pursuant to * * * Section 60642.

(3) The standards-based achievement tests provided for in Section 60642.5.

(4) The high school exit examination.

(c) Based on the API, the Superintendent of Public Instruction shall develop, and the State Board of Education shall adopt, expected annual percentage growth targets for all schools based on their API baseline score * * * from the previous year. Schools are expected to meet these growth targets through effective allocation of available resources. For schools below the statewide API performance target adopted by the State Board of Education pursuant to subdivision (d), the minimum annual percentage growth target shall be 5 percent of the difference between a school's actual API score and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target shall have, as their growth target, maintenance of their API score above the statewide API performance target. However, the State Board of Education may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement. To meet its growth target, a school shall demonstrate that the annual growth in its API is equal to or more than its schoolwide annual percentage growth target and that all numerically significant ethnic and socioeconomically disadvantaged subgroups, as defined in subdivision (a) of Section 52052, are making comparable improvement.

(d) Upon adoption of state performance standards by the State Board of Education, the Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target. When the API is fully developed, schools * * * must, at a minimum, meet their annual API growth targets to be eligible for the Governor's Performance Award Program as set forth in Section 52057. The State Board of Education may establish additional criteria that schools must meet to be eligible for the Governor's Performance Awards Program.

(e) Beginning in June 2000, the API shall be used for both of the following:

(1) Measuring the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Ranking all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

(f)(1) A comprehensive high school, middle school, or elementary school with 11 to 99 valid test scores of pupils who were enrolled in a school within the same school district in the prior fiscal year shall receive an API score with an asterisk that indicates less statistical certainty than API scores based on 100 or more test scores.

(2) A school under the jurisdiction of a county board of education or a county superintendent of schools, a community day school, or an alternative school, including continuation high schools and opportunity schools, may receive an API score if the school has 11 more or more valid test scores and the school chooses to receive an API score for at least three years.

(3) A school that participates in the Immediate Intervention/Underperforming Schools Program described in Section 52053 shall receive an API score for the duration of its participation in that program, unless the Superintendent of Public Instruction determines that an API score would be an invalid measure of the school's performance for one or more of the following reasons:

(A) Irregularities in testing procedures occurred.

(B) The data used to calculate the school's API score are not representative of the pupil population at the school.

(C) Significant demographic changes in the school's pupil population render year-to-year comparisons of pupil performance invalid.

(D) The Department of Education discovers or receives information indicating that the integrity of the school's API score has been compromised.

(g) Only * * * schools * * * with 100 or more * * * test scores contributing to the API may be included in the API rankings.

(h) By July 1, 2000, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall develop an alternative accountability system for schools with fewer than 100 * * * test scores contributing to the schools' API scores, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools serving high-risk pupils, including continuation high schools and * * * opportunity schools.

SEC. 2. Section 52052.2 is added to the Education Code, to read:

52052.2. A school that receives an API score with an asterisk shall be eligible for the Governor's Performance Awards Program, as set forth in Section 52057 and for participation in the Immediate Intervention/Underperforming Schools Program, as set forth in Section 52053.

SEC. 3. Section 52053 of the Education Code is amended to read:

52053. (a) The Immediate Intervention/Underperforming Schools Program is hereby established. By August 15, 1999, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall invite schools that scored below the 50th percentile on the achievement tests administered pursuant to Section 60640 both in the spring of 1998 and in the spring of 1999 to participate in the Immediate Intervention/Underperforming Schools Program. A school invited to participate may take any action not otherwise prohibited under state or federal law and that would not require reimbursement by the Commission on State Mandates to improve pupil performance.

(b) The total number of schools participating in the program in 1999 shall be 430. Unless subdivision (d) applies, schools that apply will be selected based on the order in which they apply within ranks of deciles, not to exceed 86 per decile, within the following grade level categories:

(1) No more than 301 elementary schools.

(2) No more than 78 middle schools.

(3) No more than 52 high schools.

(c) The 86 schools selected within each decile range pursuant to subdivision (b) shall proportionately represent elementary, middle, and high schools and shall provide statewide proportionate geographic representation of urban and rural schools.

(d) If fewer than the number of schools in any grade level category apply, schools that scored below the 50th percentile in those grade level categories that did not apply for the program shall randomly be selected by the Superintendent of Public Instruction, with the approval of the State Board of Education, to participate based on their proportional representation in the state until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(e) If more than the requisite number of schools apply for any grade level category, the Superintendent of Public Instruction shall select an array of schools that reflect a broad range of academic performance of schools that scored below the 50th percentile, until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(f) A school selected to participate on or before September 1, 1999, shall be awarded a planning grant from funds appropriated pursuant to paragraph (1) of subdivision (a) of Section 2 of the act adding this section in the amount of fifty thousand dollars ($50,000). A school selected to receive federal funds pursuant to paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall be awarded an implementation grant in an amount of at least fifty thousand dollars ($50,000) pursuant to Public Law 105–78.

(g) Schools receiving funding under paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall comply with Public Law 105–78.

(h) By September 15, 2000, and each year thereafter, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall identify schools that failed to meet their Academic Performance Index (API) growth targets and that have an API score below the 50th percentile in the previous school year relative to all other public elementary, middle or high schools. The Superintendent of Public Instruction shall invite these schools to participate in the Immediate Intervention/Underperforming Schools Programs. A school invited to participate may take any action to improve pupil performance not otherwise prohibited under state or federal law and that would not require reimbursement by the Commission on State Mandates.

(i) The total number of schools selected for participation in the program shall be no more than the number that can be funded through the total appropriation for the planning grants referenced in subdivision (*l*) below.

(j) If fewer schools apply for participation than can be funded, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall randomly select the balance of schools from schools eligible to participate that did not apply. Insofar as possible, the schools randomly selected should reflect a representative proportion of elementary, middle and high schools, as well as a broad range of academic achievement.

(k) If more schools apply for participation than can be funded, the schools shall be selected on the order in which they apply. Insofar as possible, the schools * * * selected should reflect a representative proportion of elementary, middle and high schools, as well as a broad range of academic achievement.

(*l*) A school selected to participate on or before October 15, 2000, and each year thereafter, shall be awarded a planning grant from funds appropriated pursuant to this act of fifty thousand dollars ($50,000).

(m) Schools selected for participation in the program shall be notified by the Superintendent of Public Instruction no later than October 15 of each year.

SEC. 4. Section 52054 of the Education Code is amended to read:

52054. (a) By November 15 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program shall contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

(b) The selected external evaluator shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator shall do all of the following:

(1) Inform the parents and legal guardians, in writing, that the school has been selected to participate in the Immediate Intervention/Underperforming Schools Program due to its below average performance.

(2) Hold a public meeting at the school, in cooperation with the principal, to which all parents and legal guardians of pupils in the school receive a written invitation. The invitation to the meeting may be combined with the written notice required by paragraph (1).

(3) Solicit, at the public meeting, the recommendations and opinions of the participating parents and legal guardians of pupils in the school regarding actions that should be taken to improve the performance of the school. These opinions and recommendations shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section.

(4) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By February 15 of the school year in which the school is selected to participate, the selected external evaluator, in collaboration with the broad-based schoolsite and community team selected pursuant to subdivision (a), shall complete a review of the school that identifies weaknesses that contribute to the school's below average performance, make recommendations for improvement, and begin to develop an action plan to improve the academic performance of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the State Board of Education pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a scope that requires reimbursement by the Commission on State Mandates for its implementation.

(d) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

(2) Identify the current barriers at the school and district toward improvements in pupil achievement.

(3) Identify schoolwide and districtwide strategies to remove these barriers.

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding the achievement of English language learners, pupils with exceptional needs, pupils who qualify for free and reduced price meals, and pupils * * * <u>in numerically significant subgroups.</u>

(6) Set short-term academic objectives pursuant to Section 52052 for a two-year period that will allow the school to make adequate progress toward the growth targets established for each participating school for pupil achievement as measured by all of the following to the extent that the data is available for the school:

(A) The achievement test administered pursuant to Section 60640.

(B) Graduation rates for grades 7 to 12, inclusive.

(C) Attendance rates for pupils and school personnel for elementary, middle, and secondary schools.

(D) Any other indicators approved by the State Board of Education.

(e) The school action plan shall focus on improving pupil academic performance, improving the involvement of parents and guardians, improving the effective and efficient allocation of resources and management of the school, and identifying and developing solutions that take into account the underlying causes for low performance by pupils.

(f) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(g) The school action plan may propose to increase the number of instructional days offered at the schoolsite and also may propose to increase up to a full 12 months the amount of time for which certificated employees are contracted, if all of the following conditions are met:

(1) Provisions of the plan proposed pursuant to this subdivision shall not violate current applicable collective bargaining agreements.

(2) An agreement is reached with the exclusive representative concerning staffing specifically to accommodate the extended school year or 12-month contract.

(h) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(i) Upon its completion, the action plan shall be submitted to the governing board of the school districts for its approval. After the plan is approved, but no later than May 15 of the year that follows the year the school is selected to participate, the plan shall be submitted to the Superintendent of Public Instruction with a request for funding in the form prescribed by the Superintendent of Public Instruction, who shall review the school action plan and recommend approval or disapproval of the school's request for funding to the State Board of Education.

(j) Not later than July 15 of the year next following the year in which a school is selected for participation, the State Board of Education shall review and approve or disapprove the school's request for funding, based on the recommendation of the Superintendent of Public Instruction. Within 30 days of the State Board of Education's review, the Superintendent of Public Instruction shall notify the effected school districts of the state of the board's action regarding the request for funding. In conjunction with its approval of a request for funding to implement a school's action plan, the State Board of Education may, at the request of the governing board of the school district or the county board of education for a school under its jurisdiction, waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300.

SEC. 5. Section 52055.5 of the Education Code is amended to read:

52055.5. * * * (a) Twenty-four months after receipt of funding pursuant to Section 52054.5, a school that has not met its growth targets each year, but demonstrates significant growth, as determined by the State Board of Education, shall continue to participate in the program for an additional year and to receive funding in the amount specified in Section 52054.5. Thirty-six months after receipt of funds pursuant to Section 52054.5, a school is no longer eligible to receive funding pursuant to that section.

* * * (b) Twenty-four months after receipt of funding pursuant to Section 52054. 5, a school that has not met its growth targets * * * each year and has failed to show significant growth, as determined by the State Board of Education, shall be deemed a low-performing school. Notwithstanding any other provision of law, the Superintendent of Public Instruction shall assume all the legal rights, duties, and powers of the governing board with respect to that school. The Superintendent of Public Instruction, in consultation with the State Board of Education and the governing board of the school district, shall reassign the principal of that school subject to the findings in subdivision (d). In addition to reassigning the principal, the Superintendent of Public Instruction, in consultation with the State Board of Education, shall, notwithstanding any other provision of law, do at least one of the following:

(1) Revise attendance options for pupils to allow them to attend any public school in which space is available. If additional attendance options are made available, nothing in this option shall be construed to require either the sending or receiving school district to incur additional transportation costs.

(2) Allow parents to apply directly to the State Board of Education for the establishment of a charter school and allow parents to establish the charter school at the existing schoolsite.

(3) Under the supervision of the Superintendent of Public Instruction, assign the management of the school to a college, university, county office of education, or other appropriate

educational institution. However, the Superintendent of Public Instruction may not assume the management of the school.

(4) Reassign other certificated employees of the school.

(5) Renegotiate a new collective bargaining agreement at the expiration of the existing collective bargaining agreement.

(6) Reorganize the school.

(7) Close the school.

(c) In addition to the actions listed in subdivision (b), the Superintendent of Public Instruction, in consultation with the State Board of Education, may take any other action considered necessary or desirable against the school district or the school district governing board, including appointment of a new superintendent or suspension of the authority of the governing board with respect to the school or schools identified pursuant to subdivision (b).

(d) Before the Superintendent of Public Instruction may take any action against a principal pursuant to subdivision (b), the Superintendent of Public Instruction or a designee of the superintendent shall hold a public hearing on the matter in the school district and make both of the following findings:

(1) A finding that the principal had the authority to take specific enumerated actions that would have helped the school meet its performance goals.

(2) A finding that the principal failed to take specific enumerated actions pursuant to paragraph (1).

(e) A school that has not met its growth targets within 36 months of receiving funding pursuant to Section 52054.5, but has shown significant growth, as determined by the State Board of Education, shall continue to be monitored by the Superintendent of Public Instruction until it meets its annual growth target or the statewide performance target. If, in any year between the third year of implementation funding and the first year the school meets its growth target, the school fails to make significant growth, as determined by the State Board of Education, that school shall be deemed a low-performing school and subject to the provisions of paragraphs (1) to (7), inclusive, of subdivision (b).

(f) An action taken pursuant to subdivision (b), (c), or (d) * * * shall not increase local costs or require reimbursement by the Commission on State Mandates.

(g) An action taken pursuant to subdivision ((b), (c), or (d) * * * shall be accompanied by specific findings by the Superintendent of Public Instruction and the State Board of Education that the action is directly related to the identified causes for continued failure by a school to meet its performance goals.

SCHOOLS AND SCHOOL DISTRICTS—COMPACTS—HIGH PRIORITY SCHOOLS GRANT PROGRAM FOR LOW PERFORMING SCHOOLS

CHAPTER 749

A.B. No. 961

AN ACT to amend Sections 51101, 52054, and 52058 of, to add Sections 52054.3 and 52055.51 to, and to add Article 3.5 (commencing with Section 52055.600) to Chapter 6.1 of Part 28 of, the Education Code and to amend Item 6110-123-0001 of Section 2.00 of the Budget Act of 2001, relating to schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Filed with Secretary of State October 12, 2001.]

Governor's reduction message follows this Chapter

LEGISLATIVE COUNSEL'S DIGEST

AB 961, Steinberg. Low-performing schools.

(1) Existing law requires the governing board of a school district to develop jointly with parents and guardians, and to adopt, a policy that outlines how parents or guardians of pupils, school staff, and pupils may share the responsibility for continuing the intellectual, physical, emotional, and social development and well-being of pupils at each schoolsite.

This bill would, consistent with federal law, require a school that participates in the High Priority Schools Grant Program for Low Performing Schools established by this bill and that maintains kindergarten or any of grades 1 to 5, inclusive, to jointly develop with parents or guardians for all children enrolled at that schoolsite a school-parent compact.

(2) Existing law establishes various programs designed to improve the academic achievement of pupils, including, among others, the Public Schools Accountability Act of 1999 which contains the Immediate Intervention/Underperforming Schools Program (IIUSP) and requires the Superintendent of Public Instruction to develop an Academic Performance Index (API) to measure the performance of schools. Existing law requires a school district that participates in the IIUSP to contract with an external evaluator to assist the school in the development of its school action plan.

This bill would add to the duties of the external evaluator the provision of technical assistance to the participating school and would, as an alternative to contracting with the external evaluator, allow a school district to contract with entities with proven expertise specific to the challenges inherent in low-performing schools. The bill would authorize a school selected on or after September 2001 to participate in the IIUSP to use an existing plan instead of the required action plan, as specified.

The bill would provide an alternative to the existing sanctions to which a school is subject if it does not meet its API growth target and fails to show significant growth.

This bill would establish the High Priority Schools Grant Program for Low Performing Schools within the Public Schools Accountability Act of 1999. The bill would require the Superintendent of Public Instruction to invite schools ranked in the 5 lowest deciles of the API to participate in the IIUSP and the High Priority Schools Grant Program for Low Performing Schools. Priority for participation would be given to schools ranked in the lowest deciles, as specified. Participation in the IIUSP would be required in order to receive funding under the program established by the bill. The bill would require a school to develop and submit an action plan containing specified components. The bill would require a school district to report certain information annually to the Superintendent of Public Instruction regarding a participating school's progress toward achieving specified goals.

The bill would, 24 months after receipt of funding, subject a participating school that has not met its growth targets each year to review by the State Board of Education. After a specified number of months of plan implementation, schools that do not meet their API growth targets and that fail to show significant growth would be subject to the sanctions existing under the IIUSP and the alternative sanctions established by this bill. A school participating in the High Priority Schools Grant Program for Low Performing Schools that meets or exceeds its API growth target would continue to receive funding under this program for a 4th year, as specified.

This bill would appropriate $3,000,000 from the General Fund to the State Department of Education to provide training, as specified, and for costs associated with the administration and oversight of the High Priority Schools Grant Program for Low Performing Schools and would authorize those funds to be expended to fund up to 18 positions in the department. The bill would reduce by $3,000,000 the appropriation made in the Budget Act of 2001 for purposes of low-performing schools.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 51101 of the Education Code is amended to read:

51101. (a) Except as provided in subdivision (d), the parents and guardians of pupils enrolled in public schools have the right and should have the opportunity, as mutually supportive and respectful partners in the education of their children within the public schools, to be informed by the school, and to participate in the education of their children, as follows:

(1) Within a reasonable period of time following making the request, to observe the classroom or classrooms in which their child is enrolled or for the purpose of selecting the school in which their child will be enrolled in accordance with the requirements of any intradistrict or interdistrict pupil attendance policies or programs.

(2) Within a reasonable time of their request, to meet with their child's teacher or teachers and the principal of the school in which their child is enrolled.

(3) To volunteer their time and resources for the improvement of school facilities and school programs under the supervision of district employees, including, but not limited to, providing assistance in the classroom with the approval, and under the direct supervision, of the teacher. Although volunteer parents may assist with instruction, primary instructional responsibility shall remain with the teacher.

(4) To be notified on a timely basis if their child is absent from school without permission.

(5) To receive the results of their child's performance on standardized tests and statewide tests and information on the performance of the school that their child attends on standardized statewide tests.

(6) To request a particular school for their child, and to receive a response from the school district. This paragraph does not obligate the school district to grant the parent's request.

(7) To have a school environment for their child that is safe and supportive of learning.

(8) To examine the curriculum materials of the class or classes in which their child is enrolled.

(9) To be informed of their child's progress in school and of the appropriate school personnel whom they should contact if problems arise with their child.

(10) To have access to the school records of their child.

(11) To receive information concerning the academic performance standards, proficiencies, or skills their child is expected to accomplish.

(12) To be informed in advance about school rules, attendance policies, dress codes, and procedures for visiting the school.

(13) To receive information about any psychological testing the school does involving their child and to deny permission to give the test.

(14) To participate as a member of a parent advisory committee, schoolsite council, or site-based management leadership team, in accordance with any rules and regulations governing membership in these organizations. In order to facilitate parental participation, schoolsite councils are encouraged to schedule a biannual open forum for the purpose of informing parents about current school issues and activities and answering parents' questions. The meetings should be scheduled on weekends, and prior notice should be provided to parents.

(15) To question anything in their child's record that the parent feels is inaccurate or misleading or is an invasion of privacy and to receive a response from the school.

(b) In addition to the rights described in subdivision (a), parents and guardians of pupils shall have the opportunity to work together in a mutually supportive and respectful partnership with schools, and to help their children succeed in school. Each governing board of a school district shall develop jointly with parents and guardians, and shall adopt, a policy that outlines how parents or guardians of pupils, school staff, and pupils may share the responsibility for continuing the intellectual, physical, emotional, and social development and well-being of pupils at each schoolsite. The policy shall include, but is not necessarily limited to, the following:

(1) The means by which the school and parents or guardians of pupils may help pupils to achieve academic and other standards of the school.

(2) A description of the school's responsibility to provide a high quality curriculum and instructional program in a supportive and effective learning environment that enables all pupils to meet the academic expectations of the school.

(3) The manner in which the parents and guardians of pupils may support the learning environment of their children, including, but not limited to, the following:

(A) Monitoring attendance of their children.

(B) Ensuring that homework is completed and turned in on a timely basis.

(C) Participation of the children in extracurricular activities.

(D) Monitoring and regulating the television viewed by their children.

(E) Working with their children at home in learning activities that extend learning in the classroom.

(F) Volunteering in their children's classrooms, or for other activities at the school.

(G) Participating, as appropriate, in decisions relating to the education of their own child or the total school program.

(c) All schools that participate in the High Priority Schools Grant Program for Low Performing Schools established pursuant to Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28 and that maintain kindergarten or any of grades 1 to 5, inclusive, shall jointly develop with parents or guardians for all children enrolled at that schoolsite, a school-parent compact pursuant to Section 6319 of Title 20 of the United States Code.

(d) This section may not be construed so as to authorize a school to inform a parent or guardian, as provided in this section, or to permit participation by a parent or guardian in the education of a child, if it conflicts with a valid restraining order, protective order, or order for custody or visitation issued by a court of competent jurisdiction.

SEC. 2. Section 52054 of the Education Code is amended to read:

52054. (a) Commencing in the 2001–02 fiscal year, by November 15 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program * * * may do either of the following:

(1) Contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

(2) Contract with any entity that has proven successful expertise specific to the challenges inherent in low-performing schools. These entities may include, but are not limited to:

(A) Institutions of higher education.

(B) County offices of education.

(C) School district personnel.

(b) The selected external evaluator or entity shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator or entity shall do all of the following:

(1) Inform the parents and legal guardians, in writing, that the school has been selected to participate in the Immediate Intervention/Underperforming Schools Program due to its below average performance.

(2) Hold a public meeting at the school, in cooperation with the principal, to which all parents and legal guardians of pupils in the school receive a written invitation. The invitation to the meeting may be combined with the written notice required by paragraph (1).

(3) Solicit, at the public meeting, the recommendations and opinions of the participating parents and legal guardians of pupils in the school regarding actions that should be taken to improve the performance of the school. These opinions and recommendations shall be considered by the external evaluator or entity and the community team in the development or modification of the action plan pursuant to this section or Section 52054.3.

(4) Provide technical assistance to the schoolsite.

(5) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator or entity and the community team in the development or modification of the action plan pursuant to this section or Section 52054.3. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By February 15 of the school year in which the school is selected to participate, the selected external evaluator or entity, in collaboration with the broad-based schoolsite and community team selected pursuant to subdivision (a), shall complete a review of the school that identifies weaknesses that contribute to the school's below average performance, make recommendations for improvement, and begin to develop an action plan to improve the academic performance of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the State Board of Education pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a scope that requires reimbursement by the Commission on State Mandates for its implementation.

(d) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

(2) Identify the current barriers at the school and district toward improvements in pupil achievement.

(3) Identify schoolwide and districtwide strategies to remove these barriers.

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding the achievement of English language learners, pupils with exceptional needs, pupils who qualify for free and reduced price meals, and all pupils, * * * in numerically significant subgroups.

(6) Set short-term academic objectives pursuant to Section 52052 for a two-year period that will allow the school to make adequate progress toward the growth targets established for

each participating school for pupil achievement as measured by all of the following to the extent that the data is available for the school:

(A) The achievement test administered pursuant to Section 60640.

(B) Graduation rates for grades 7 to 12, inclusive.

(C) Attendance rates for pupils and school personnel for elementary, middle, and secondary schools.

(D) Any other indicators approved by the State Board of Education.

(e) The school action plan shall focus on improving pupil academic performance, improving the involvement of parents and guardians, improving the effective and efficient allocation of resources and management of the school, and identifying and developing solutions that take into account the underlying causes for low performance by pupils.

(f) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(g) The school action plan may propose to increase the number of instructional days offered at the schoolsite and also may propose to increase up to a full 12 months the amount of time for which certificated employees are contracted, if all of the following conditions are met:

(1) Provisions of the plan proposed pursuant to this subdivision shall not violate current applicable collective bargaining agreements.

(2) An agreement is reached with the exclusive representative concerning staffing specifically to accommodate the extended school year or 12-month contract.

(h) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(i) Upon its completion, the action plan shall be submitted to the governing board of the school districts for its approval. * * * <u>The approval may be conducted during a regularly scheduled public meeting.</u>

* * *

SEC. 3. Section 52054.3 is added to the Education Code, to read:

52054.3. A school selected on or after September 2001 may elect to use an existing plan instead of the action plan required pursuant to Section 52054 if that plan meets the requirements specified pursuant to subdivisions (c), (d), (e), (f), (g), (h), and (i) of Section 52054. If an existing plan needs modification, the external evaluator or entity with which the school district contracts pursuant to Section 52054 shall provide technical assistance in making those modifications.

SEC. 4. Section 52055.51 is added to the Education Code, immediately following Section 52055.5, to read:

52055.51. (a) Instead of the actions specified in subdivision (c) of Section 52055.5, as that section read on January 1, 2001, and notwithstanding any other provision of law, the Superintendent of Public Instruction, with the approval of the State Board of Education, may require the district to enter into a contract with a school assistance and intervention team.

(b) Team members should possess a high degree of knowledge and skills in the areas of school leadership, curriculum, and instruction aligned to state academic content and performance standards, classroom management and discipline, academic assessment, parent-school relations, and evaluation and research-based reform strategies and have proven successful expertise specific to the challenges inherent in low-performing schools.

(c) The team shall provide intensive support and expertise to implement the school reform initiatives in the plan. Decisions about interventions shall be data driven. A school assistance and intervention team shall work with school staff, site planning teams, administrators, and district staff to improve pupil literacy and achievement by assessing the degree of implementation of the current action plan, refining and revising the action plan, and making recommendations to maximize the use of fiscal resources and personnel in achieving the goals of the plan. The district shall provide support and assistance to enhance the work of the team at the targeted schoolsites.

(d) Not later than 60 days after the school's API becomes public, the team must have completed an initial report. The report shall include recommendations for corrective actions chosen from a range of interventions, including the reallocation of district fiscal resources to ensure that appropriate resources are targeted to those specific interventions identified in the recommendations of the team for the targeted schools and other changes deemed appropriate to make progress toward meeting the schools growth target. Not later than 90 days after the API is made public, the governing board of the school district shall adopt the team's recommendations at a regularly scheduled meeting of the governing board. The governing board may not place the adoption on the consent calendar. The report shall be submitted to the Superintendent of Public Instruction and State Board of Education.

(e) No less than three times during the year, the school district and schoolsite shall present the team with data regarding progress toward the goals established by the team's initial assessment. The data shall be presented to the governing board of the school district at a regularly scheduled meeting. The team shall, to the extent possible, utilize existing site data. The data shall also be provided to the Superintendent of Public Instruction and State Board of Education. Every effort shall be made to report this data in a manner that minimizes the length and complexity of the reporting requirement in order to maximize the focus on improving pupil literacy and achievement.

(f) An action taken pursuant to this paragraph shall not increase local costs or require reimbursement by the Commission on State Mandates.

SEC. 5. Article 3.5 (commencing with Section 52055.600) is added to Chapter 6.1 of Part 28 of the Education Code, to read:

Article 3.5. High Priority Schools Grant Program for Low Performing Schools

52055.600. (a) The High Priority Schools Grant Program for Low Performing Schools is hereby established. Participation in this program is voluntary.

(b) From funds made available for purposes of this article, the Superintendent of Public Instruction shall allocate two hundred dollars ($200) per pupil to eligible schools for implementation of a school action plan approved pursuant to this article. In the first year of participation, a schoolsite may receive thirty-three dollars and thirty-three cents ($33.33) per pupil for each month remaining in the fiscal year ending June 30, 2002, beginning in the month immediately following the date of approval by the governing board of the school district of the action plan required pursuant to this article. If the plan is not approved prior to the end of the fiscal year, the funding shall be similarly prorated in the subsequent year.

(c) It is the intent of the Legislature that federal funding provided pursuant to the Comprehensive School Reform Demonstration Program (P.L. 105-78) supplement, not supplant, funding received pursuant to this article.

(d) Funds received pursuant to this article may not be used to match funds received pursuant to Article 3 (commencing with Section 52053).

(e) The school district shall keep fiscal records available for inspection that affirm allocation to schoolsites in accordance with this section and shall allocate resources in a manner that does not delay their use.

52055.605. (a) The Superintendent of Public Instruction, with the approval of the State Board of Education, shall identify schools ranked in deciles 1 to 5, inclusive, on the Academic Performance Index (API).

(b) The Superintendent of Public Instruction shall invite schools identified pursuant to subdivision (a) to participate in the High Priority Schools Grant Program for Low Performing Schools. Notwithstanding subdivision (h) of Section 52053, in order to be eligible for funding from the High Priority Schools Grant Program for Low Performing Schools, a school shall also participate in the Immediate Intervention/Underperforming Schools Program. A school participating in both programs may elect to submit only one application and one plan for both programs. A school participating in the Immediate Intervention/Underperforming Schools Program before the date of the enactment of the act adding this section is also eligible for participation in the High Priority Schools Grant Program for Low Performing Schools.

(c) First priority for participation in the High Priority Schools Grant Program for Low Performing Schools shall be given to schools ranked on the API in decile 1. Second priority shall be given to schools in decile 2. Third priority shall be given to schools in decile 3. Fourth priority shall be given to schools in decile 4. Fifth priority shall be given to schools in decile 5. Within each decile, priority shall be given to the lowest ranked schools.

(d) Notwithstanding any other provision of law and if funds are available for this purpose, the number of schools within the designated cohorts of the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053 may exceed the maximum numbers specified in that section in order to participate in the program established pursuant to this article.

(e) If a school ranked in decile 1 of the API applies to participate in the federal Comprehensive School Reform Demonstration Program (P.L. 105-78), but there are insufficient funds to allow that school to participate in that program, that school shall be automatically approved to the extent funding is available for participation in the Immediate Intervention/Underperforming Schools Program and shall be deemed to have complied with the requirements of Section 52054.

(f) The State Board of Education may allow continuation high schools to apply for and receive funding pursuant to this article if those continuation high schools report pupil performance that is equivalent to that of high schools ranked in deciles 1 and 2 on the Academic Performance Index and the board determines that the state will be able to adequately determine growth in pupil performance in a valid and reliable manner for the purpose of accountability pursuant to this article. The State Board of Education may establish a limit on the number of continuation high schools that may be funded to reflect their proportion of low performing pupils in grades 9 to 12, inclusive, and may adopt criteria limiting the eligibility for funding, pursuant to this article, of continuation high schools with a high level of per pupil funding from the continuation high school revenue limit add-on.

52055.610. (a) Fourteen days after the effective date of the act adding this section, the Superintendent of Public Instruction shall establish a procedure that is consistent with this article for the approval of applications and school action plans.

(b) Notwithstanding the existing application process established pursuant to Article 3 (commencing with Section 52053), in developing an action plan to be submitted with the application for funding pursuant to this article, a school may choose from the following options:

(1) A school district on behalf of an eligible school under its jurisdiction may elect to receive fifty thousand dollars ($50,000) as a planning grant from funds appropriated for purposes of this article. These planning grant funds shall be used for technical assistance in the development of the school action plan. Technical assistance includes assistance provided by school district personnel, county offices of education, universities, a state approved external evaluator, or any other entity that has proven successful expertise specific to the challenges inherent in low-performing schools. If the school action plan is approved, the Superintendent of Public Instruction shall provide funding for its implementation. Planning grant funds, as well as other funds available to school districts pursuant to this article, may be used for on-going technical assistance throughout the implementation of the action plan and continued participation in the program established pursuant to Article 3 (commencing with Section 52053) and the program established pursuant to this article.

(2) A school district, on behalf of an eligible school under its jurisdiction, may elect to forego the fifty thousand dollars ($50,000) planning grant and immediately submit its application and school action plan. If a school chooses this option, the Superintendent of Public Instruction shall take one of the following actions:

(A) Recommend approval of the application by the State Board of Education and action plan and provide funding for implementation of the school action plan.

(B) Request additional clarification and technical changes, after which the school and district shall resubmit the application and school action plan with the clarifications and changes for approval. If the application and school action plan is approved, the Superintendent of Public Instruction shall provide funding for implementation of the school action plan.

(C) Disapprove the plan in which case a school district on behalf of an eligible school under its jurisdiction shall receive a fifty thousand dollars ($50,000) planning grant that shall be used for technical assistance in the redevelopment of the school action plan according to the department's recommendations. Technical assistance includes assistance provided by school district personnel, county offices of education, universities, a state approved external evaluator, or any other entity that has proven expertise specific to the challenges inherent in low-performing schools.

(c) The following deadlines apply for the 2001–02 fiscal year:

(1) A school district on behalf of an eligible school under its jurisdiction shall submit the application and school action plan to the Superintendent of Public Instruction for review and approval by March 15, 2002.

(2) The Superintendent of Public Instruction shall make a recommendation to the State Board of Education regarding approval or disapproval of applications and school action plans by April 15, 2002. The State Board of Education shall approve or disapprove the application and action plan by April 30, 2002. Upon approval by the State Board of Education, the State Department of Education shall allocate funding to schools for the implementation of the action plan. If the State Board of Education fails to approve or disapprove the application and school action plan by April 30, 2002, the recommendation of the Superintendent of Public Instruction shall be deemed to be adopted and funding for implementation of the action plan shall be allocated.

(3) If the Superintendent of Public Instruction takes the action specified in subparagraph (B) of paragraph (2) of subdivision (b), the school and school district shall resubmit the application and school action plan with the clarifications and changes for approval by May 15, 2002, and the Superintendent of Public Instruction shall make a recommendation to the State Board of Education regarding approval or disapproval by June 15, 2002. The State Board of Education shall approve or disapprove the application and action plan by June 30, 2002. If the action plan is approved, the department shall allocate funding to the school district on behalf of an eligible school under its jurisdiction for implementation of the action plan. If the State Board of Education fails to approve or disapprove the application and school action plan by June 30, 2002, the recommendation of the Superintendent of Public Instruction shall be deemed to be adopted and funding for implementation of the action plan.

(4) A school district may request that the State Board of Education waive the deadlines set forth in this subdivision. The State Board of Education may grant a waiver request made pursuant to this paragraph.

52055.615. (a) If the Superintendent of Public Instruction invites a school to participate in either the High Priority Schools Grant Program for Low Performing Schools or the Immediate Intervention/Underperforming Schools Program, the governing board of the school district shall hold a public hearing at a regularly scheduled meeting to discuss whether or not to apply for participation in these programs and how to address the needs of the school and pupils.

(b) If a school district, on behalf of an eligible school under its jurisdiction, decides not to accept the invitation to participate in the High Priority Schools Grant Program for Low Performing Schools or the Immediate Intervention/Underperforming Schools Program, the governing board of the school district shall hold a public hearing at a regularly scheduled meeting to discuss the reasons and rationale for not accepting the invitation and explain how the district intends to address the needs of the school and pupils. This section does not apply to school districts with jurisdiction over schools for which the Superintendent of Public Instruction has indicated that funding would not be available. The governing board shall not place the discussion required pursuant to this subdivision on the consent calendar of the hearing.

(c) The governing board shall notify, in writing, the following persons and entities of the public hearings required pursuant to subdivisions (a) and (b):

(1) Representative parent organizations at the schoolsite, including the parent teacher association, parent teacher clubs, and schoolsite councils. The district is encouraged also to notify parents directly through appropriate means. Notifications to parents shall comply with Article 4 (commencing with Section 48985) of Chapter 6 of Part 27.

(2) All local major media outlets.

(3) The local mayor.

(4) All members of the city council.

(5) All members of the county board of supervisors.

(6) County superintendents of schools.

(7) County board of education.

52055.620. (a) As a condition of the receipt of funds, a school action plan shall be based upon the following:

(1) It shall be research based and data driven.

(2) It shall include ongoing data gathering for the purposes of this program so that progress can be measured and verified and the plan can be modified based on the data.

(3) It shall be grounded in the findings from an initial needs assessment.

(4) It shall evidence a commitment by the school community to implement the plan. The plan shall describe how this commitment will be evidenced.

(5) It shall make clear that there is a heightening of expectations on the part of all personnel associated with the schoolsite that all children can learn and every school can succeed.

(6) It shall ensure that an environment that is conducive to teaching and learning is provided at the schoolsite.

(7) It shall identify additional human, financial, and other resources available to the school to be used in the implementation of the school action plan.

(b)(1) The action plan shall be developed, in partnership with the school district, by the schoolsite council, as defined in Section 52012, or if the school does not have a schoolsite council, by a schoolwide advisory group or school support group that conforms to the requirements of Section 52012 and whose members are self-selected.

(2) Notwithstanding paragraph (1), a school participating in the Immediate Intervention/Underperforming Schools Program prior to the effective date of the act adding this section may continue using its school action team for purposes of developing an action plan pursuant to this article.

(c) In developing a school action plan, the school and school district shall use the technical assistance from school district personnel, county offices of education, universities, a state approved external evaluator, or any other person or entity that has proven successful expertise specific to the challenges inherent in low-performing schools. In addition, the school and district may include an individual to facilitate the activities related to the development of this plan.

(d) The action plan shall include a strategy, jointly developed by the school district and the exclusive bargaining representative of the certificated employees of the district, for addressing the distribution of experienced credentialed teachers throughout the district, including an agreement by the district and the exclusive bargaining representative of the certificated staff on how they are going to achieve a balance in that distribution. This collaboration shall take place outside of collective bargaining and shall strive to develop a strategy that will attract and retain equal ratios of credentialed teachers at each school in the district. This collaboration shall include discussions on ways to maximize current options to recruit credentialed teachers to the district, use of regional recruitment centers, ensuring that newly hired credentialed teachers are assigned in alignment with the goal of even distribution of credentialed teachers, and ensuring that low-performing schools provide a necessary teaching and learning environment to retain a fully credentialed teaching staff.

(e) The action plan may include any existing plan a school may have developed for another program, that may include existing strategies that meet the requirements of the essential components of a school action plan specified in Section 52055.625.

52055.625. (a) It is the intent of the Legislature that the lists contained in paragraph (2) of subdivisions (c), (d), (e), and (f) be considered options that may be considered by a school in the development of its school action plan and that a school not adopt all of the listed options

as a condition of funding under the terms of this act. Instead, this listing of options is intended to provide the opportunity for focus and strategic planning as schools plan to address the needs of low performing pupils.

(b) As a condition of the receipt of funds, a school action plan shall include each of the following essential components:

(1) Pupil literacy and achievement.

(2) Quality of staff.

(3) Parental involvement.

(4) Facilities, curriculum, instructional materials, and support services.

(c)(1) The pupil literacy and achievement component shall contain a strategy to focus on increasing pupil literacy and achievement, with necessary attention to the needs of English language learners. At a minimum, this strategy shall include a plan to achieve the following goals:

(A) Each pupil at the school will be provided appropriate instructional materials aligned with the academic content and performance standards adopted by the State Board of Education as required by law.

(B) Each significant subgroup at the school will demonstrate increased achievement based on API results by the end of the implementation period.

(C) Each English language learner at the school will demonstrate increased performance based on the English language development test required by Section 60810 and the achievement tests required pursuant to Section 60640.

(2) To achieve the goals in paragraph (1), a school in its action plan may include, among other things, any of the following options:

(A) Selective class size reduction in key curricular areas provided this does not result in a decrease in the proportion of experienced credentialed teachers at the schoolsite.

(B) Increased learning time in key curricular areas identified as needing attention, including mathematics.

(C) Targeted intensive reading instruction utilizing reading capacity-level materials that may include, but are not limited to, the following strategies:

(i) The development of a reading competency program for pupils in grades 5 to 8, inclusive, whose reading scores are at or below the 40th percentile or in the two lowest performance levels, as adopted by the State Board of Education, on the reading portion of the achievement test, authorized by Section 60640. This program may include direct instruction in reading at grade level utilizing the English language arts content standards adopted pursuant to Section 60605. Additionally, this program may offer specialized intervention that utilizes state approved instructional materials adopted pursuant to Section 60200. It is the intent of the Legislature, as a recommendation, that this curriculum consist of at least one class period during the regular schoolday taught by a teacher trained in the English language arts standards pursuant to Section 60605. It is also the intent of the Legislature, as a recommendation, that periodic assessments throughout the year be conducted to monitor the progress of the pupils involved.

(ii) The use of a library media teacher to work cooperatively with every teacher and principal at the schoolsite to develop and implement an independent and free reading program, help teachers determine a pupil's reading level, order books that have been determined to meet the needs of pupils, help choose books at pupils' independent reading levels, and assure that pupils read a variety of genres across all academic content areas. For purposes of this article, "library media teacher" means a classroom teacher who possesses or is in the process of obtaining a library media teacher services credential consistent with Section 44868.

(D) Mentoring programs for pupils.

(E) Community, business, or university partnerships with the school.

(d)(1) The quality of staff component shall contain a strategy to attract, retain, and fairly distribute the highest quality staff at the school, including teachers, administrators, and support staff. At a minimum, this strategy shall include a plan to achieve the following goals:

(A) An increase in the number of credentialed teachers working at that schoolsite.

(B) An increase in or targeting of professional development opportunities for teachers related to the goals of the action plan and English language development standards adopted by the State Board of Education aligned with the academic content and performance standards, including, but not limited to, participation in professional development institutes established pursuant to Article 2 (commencing with Section 92220) of Chapter 5 of Part 65.

(C) By the end of the implementation period, successful completion by the schoolsite administrators of a program designed to maximize leadership skills.

(2) To achieve the goals in paragraph (1) a school may include in its action plan, among others, any of the following options:

(A) Incentives to attract credentialed teachers and quality administrators to the schoolsite, including, but not limited to, additional compensation strategies similar to those authorized pursuant to Section 44735.

(B) A school district preintern or intern program within which eligible emergency permit teachers located at the schoolsite would be required to participate, unless those individuals are already participating in another teacher preparation program that leads to the attainment of a valid California teaching credential.

(C) Common planning time for teachers, administrators, and support staff focused on improving pupil achievement.

(D) Mentoring for site administrators, peer assistance for credentialed teachers, and support services for new teachers, including, but not limited to, the Beginning Teacher Support and Assessment System.

(E) Providing assistance and incentives to teachers for completion of professional certification programs and toward attaining BCLAD or CLAD certification.

(F) Increasing professional development in state academic content and performance standards, including English language development standards.

(e)(1) The parental involvement component shall contain a strategy to change the culture of the school community to recognize parents and guardians as partners in the education of their children and to prepare and educate parents and guardians in the learning and academic progress of their children. At a minimum, this strategy shall include a commitment to develop a school-parent compact as required by Section 51101 and a plan to achieve the goal of maintaining or increasing the number and frequency of personal parent and guardian contacts each year at the schoolsite and school-home communications designed to promote parent and guardian support for meeting state standards and core curriculum requirements.

(2) To achieve the goals in subdivision (a), a school may in its action plan include, among others, any of the following options:

(A) Parent and guardian homework support classes.

(B) A program of regular home visits.

(C) After school and evening opportunities for parents, guardians, and pupils to learn together.

(D) Training programs to educate parents and guardians about state standards and testing requirements, including the high school exit examination.

(E) Creation, maintenance, and support of parent centers located on schoolsites to educate parents and guardians regarding pupil expectations and provide support to parents and guardians in their efforts to help their children learn.

(F) Programs targeted at parents and guardians of special education pupils.

(G) Efforts to develop a culture at the schoolsite focused on college attendance, including programs to educate parents and guardians regarding college entrance requirements and options.

(H) Providing more bilingual personnel at the schoolsite and at school related functions to communicate more effectively with parents and guardians who speak a language other than English.

(I) Providing an opportunity for parents to monitor online, if the technology is available, and in compliance with applicable state and federal privacy laws, the academic progress and attendance of their children.

(f)(1) The facilities, curriculum, instructional materials, and support services component shall contain a strategy to provide an environment that is conducive to teaching and learning and that includes the development of a high-quality curriculum and instruction aligned with the academic content and performance standards adopted pursuant to Section 60605 and English language development standards adopted pursuant to Section 60811. At a minimum, this strategy shall include the goal of providing adequate logistical support including, but not limited to, curriculum, quality instruction, instructional materials, support services, and supplies for every pupil.

(2) To achieve the goal specified in paragraph (1), a school in its action plan may include, among others, any of the following options:

(A) State and locally developed valid and reliable assessments based on state academic content standards.

(B) Increased learning time in key curricular areas identified as needing attention, including mathematics.

(C) The addition of more pupil support services staff, including, but not limited to, paraprofessionals, counselors, library media teachers, nurses, psychologists, social workers, speech therapists, audiologists, and speech pathologists.

(D) Pupil support centers for additional tutoring or homework assistance.

(E) Use of most current standards-aligned textbooks adopted by the State Board of Education, including materials for English language learners.

(F) For secondary schools, offering advanced placement courses and courses that meet the requirements for admission to the University of California or the California State University.

(g) A school action plan to improve pupil performance that is developed for participation in the program established pursuant to this article shall meet the requirements of subdivisions (d) and (e) of Section 52054 and this article.

52055.630. (a) Before a school action plan is submitted to the Superintendent of Public Instruction, the plan shall be presented at a regularly scheduled public meeting of the governing board of the school district.

(b) In addition to involving the teachers in the development of the action plan, the school district shall certify that it has met and consulted with the exclusive representative of certificated employees on the action plan. The governing board of the school district shall approve the plan and certify that the plan contains all of the essential components required pursuant to subdivision (a) of Section 52055.625.

(c) This program and an action plan for any schools participating in the program shall not be deemed to supersede conflicting language in the collective bargaining contracts of that school's district. All matters within the scope of collective bargaining continue to be subject to it.

52055.640. (a) As a condition of the receipt of funds and to ensure that the school is progressing towards meeting the goals of each of the essential components of its school action plan, each year the school district shall submit a report to the Superintendent of Public Instruction that includes the following:

(1) The academic improvement of pupils within the participating school as measured by the tests under Section 60640 and the English language development test administered pursuant to Section 60810.

(2) The improvement of distribution of experienced teachers holding a valid California teaching credential across the district.

(3) The availability of instructional materials in core content areas that are aligned with the academic content and performance standards, including textbooks, for each pupil, including English language learners.

(4) The number of parents and guardians presently involved at each participating schoolsite as compared to the number participating at the beginning of the program.

(5) The number of pupils attending afterschool, tutoring, or homework assistance programs.

(6) For participating secondary schools, the number of pupils who are enrolled in and successfully completing advanced placement courses, by type, and requirements for admission to the University of California or the California State University, including courses in algebra, biology, and United States or world history.

(b) The report on the pupil literacy and achievement component shall be disaggregated by numerically significant subgroups, as defined in Section 52052, and English language learners and have a focus on improved scores in reading and mathematics as measured by the following:

(1) The Academic Performance Index, including the data collected pursuant to tests that are part of the Standardized Testing And Reporting program and the writing sample that is part of that program.

(2) The results of the English language development test or the primary language test pursuant to Section 60640.

(3) Graduation rates, when the methodology for collecting this data has been confirmed to be valid and reliable.

(4) In addition, a school may use locally developed assessments to assist it in determining the pupil progress in academic literacy and achievement.

(c) The report on the quality of staff component shall include, but not limited to, the following information:

(1) The number of teachers at the schoolsite holding a valid California teaching credential or district or university intern certificate or credential compared to those teachers at the same schoolsite holding a preintern certificate, emergency permit, or waiver.

(2) The number and ratio of teachers across the district holding a valid California teaching credential or district or university intern certificate or credential compared to those holding a preintern certificate, emergency permit, or waiver.

(3) The number of principals having completed training pursuant to Article 4.6 (commencing with Section 44510) of Chapter 3 of Part 25.

(4) The number of principals by credential type or years of experience and length of time at the schoolsite by years.

(d) The report on the parental involvement component shall include explicit involvement strategies being implemented at the schoolsite that are directly linked to activities supporting pupil academic achievement and verification that the schoolsite has developed a school-parent compact as required by Section 51101.

(e) All comparisons made in the reports required pursuant to this section shall be based on baseline data provided by the district and schoolsite in the action plan that is certified and submitted with the initial application.

(f) To the extent that data is already reported to the Superintendent of Public Instruction, a school district need not include the data in the reports submitted pursuant to this section.

(g) Before submitting the reports required pursuant to this section, the school district shall, at a regularly scheduled public meeting of the governing board, review a participating school's progress towards achieving those goals.

52055.645. (a) For the purpose of evaluating academic growth in core curriculum areas and determining the efficacy of the school action plan, schools are strongly encouraged to assess the academic progress of pupils on an annual basis and to evaluate the results in order to determine whether changes to the schoolsite plan are needed.

(b) In conducting these annual assessments, a school shall use the English language development test where appropriate and the tests that are part of the Standardized Testing and Reporting Program. In addition, a school may use any curriculum-based achievement test to assess pupil growth.

(c) The results of these annual assessments shall be reported annually to the school district. The State Board of Education may use these results as quantifiable measurements of significant growth when determining whether to grant a waiver for an additional year of funding.

52055.647. As a condition of funding, a school shall certify that the eligible teachers and administrators assigned to a participating school will participate in the programs established pursuant to Assembly Bill 466 of the 2001–02 Regular Session and Article 4.6 (commencing with Section 44510) of Chapter 3 of Part 25.

52055.650. (a) Section 52055.5 does not apply to a school participating in the High Priority School Grant Program.

(b) Twenty-four months after receipt of funding for implementation of the action plan pursuant to Sections 52054.5 and 52055.600 or no sooner than July 1, 2004, a school that has not met its growth targets each year shall be subject to review by the State Board of Education. This review shall include an examination of the school's progress relative to the components and reports made pursuant to Section 52055.640. The Superintendent of Public Instruction, with the approval of the State Board of Education, may direct that the governing board of a school take appropriate action and adopt appropriate strategies to provide corrective assistance to the school in order to achieve the components and benchmarks established in the school's action plan.

(c) Thirty-six months after receipt of funding to implement a school action plan or no sooner than July 1, 2005, a school that has met or exceeded its growth target each year shall receive a monetary or nonmonetary award, under the Governor's Performance Award Program, as set forth in Section 52057. Funds received pursuant to that section may be used at the school's discretion.

(d) Thirty-six months after receipt of funding to implement a school action plan or no sooner than July 1, 2005, a school that has not met its growth targets each year, but demonstrates significant growth, as determined by the State Board of Education, shall continue to participate in the program and receive funding as specified in Sections 52054.5 and 52055.600.

(e) Notwithstanding any other provision of law, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall follow the course of action prescribed by paragraph (1) or (2) with respect to a school that does not meet its growth targets within the periods described in either subdivision (c) or (d), as applicable, or no later than July 1, 2005, and has failed to show significant growth, as determined by the State Board of Education.

(1) Require the district to enter into a contract with a school assistance and intervention team.

(A) Team members should possess a high degree of knowledge and skills in the areas of school leadership, curriculum, and instruction aligned to state academic content and performance standards, classroom management and discipline, academic assessment, parent-school relations, and evaluation and research-based reform strategies and have proven successful expertise specific to the challenges inherent in low-performing schools.

(B) The team shall provide intensive support and expertise to implement the school reform initiatives in the plan. Decisions about interventions shall be data driven. A school assistance and intervention team shall work with school staff, site planning teams, administrators, and district staff to improve pupil literacy and achievement by assessing the degree of implementation of the current action plan, refining and revising the action plan, and making recommendations to maximize the use of fiscal resources and personnel in achieving the goals of the plan. The district shall provide support and assistance to enhance the work of the team at the targeted schoolsites.

(C) Not later than 60 days after the school's API becomes public, the team must have completed an initial report. The report shall include recommendations for corrective actions

chosen from a range of interventions, including the reallocation of district fiscal resources to ensure that appropriate resources are targeted to those specific interventions identified in the recommendations of the team for the targeted schools and other changes deemed appropriate to make progress toward meeting the school's growth target. Not later than 90 days after the API is made public, the governing board of the school district shall adopt the team's recommendations at a regularly scheduled meeting of the governing board. The governing board may not place the adoption on the consent calendar. The report shall be submitted to the Superintendent of Public Instruction and State Board of Education.

(D) No less than three times during the year, the school district and schoolsite shall present the team with data regarding progress toward the goals established by the team's initial assessment. The data shall be presented to the governing board of the school district at a regularly scheduled meeting. The team shall, to the extent possible, utilize existing site data. The data shall also be provided to the Superintendent of Public Instruction and State Board of Education. Every effort shall be made to report this data in a manner that minimizes the length and complexity of the reporting requirement in order to maximize the focus on improving pupil literacy and achievement.

(E) An action taken pursuant to this paragraph shall not increase local costs or require reimbursement by the Commission on State Mandates.

(2) The Superintendent of Public Instruction shall assume all the legal rights, duties, and powers of the governing board with respect to the school. The Superintendent of Public Instruction, in consultation with the State Board of Education and the governing board of the school district, shall reassign the principal of that school subject to the findings in subdivision (i). In addition to reassigning the principal, the Superintendent of Public Instruction, in consultation with the State Board of Education, shall, notwithstanding any other provision of law, do at least one of the following:

(A) Revise attendance options for pupils to allow them to attend any public school in which space is available. If additional attendance options are made available, nothing in this option shall be construed to require either the sending or receiving school district to incur additional transportation costs.

(B) Allow parents or guardians to apply directly to the State Board of Education for the establishment of a charter school and allow parents or guardians to establish the charter school at the existing schoolsite.

(C) Under the supervision of the Superintendent of Public Instruction, assign the management of the school to a college, university, county office of education, or other appropriate educational institution. However, the Superintendent of Public Instruction may not assume the management of the school.

(D) Reassign other certificated employees of the school.

(E) Renegotiate a new collective bargaining agreement at the expiration of the existing collective bargaining agreement.

(F) Reorganize the school.

(G) Close the school.

(f) In addition to the actions listed in subdivision (e), the Superintendent of Public Instruction, in consultation with the State Board of Education, may take any other action considered necessary or desirable against the school district or the school district governing board, including appointment of a new superintendent or suspension of the authority of the governing board with respect to a school that does not meet its growth targets within the periods described in either subdivision (b) or (c), as applicable, and has failed to show significant growth, as determined by the State Board of Education.

(g) Before the Superintendent of Public Instruction may take any action against a principal pursuant to subdivision (e), the Superintendent of Public Instruction or a designee of the superintendent shall hold a public hearing on the matter in the school district and make both of the following findings:

(1) A finding that the principal had the authority to take specific enumerated actions that would have helped the school meet its performance goals.

(2) A finding that the principal failed to take specific enumerated actions pursuant to paragraph (1).

(h) An action taken pursuant to subdivision (e), (f), or (g) shall not increase local costs or require reimbursement by the Commission on State Mandates.

(i) An action taken pursuant to subdivision (e), (f), or (g) shall be accompanied by specific findings by the Superintendent of Public Instruction and the State Board of Education that the action is directly related to the identified causes for continued failure by a school to meet its performance goals.

52055.655. (a) Notwithstanding subdivision (c) of Section 52055.650, a school participating in the High Priority Schools Grant Program for Low Performing Schools that meets or exceeds its API growth target shall continue to receive funding under this program in the amount specified in Sections 52054.5 and 52055.600 for one additional year of implementation, less the amount received pursuant to Section 52057.

(b) From funds made available to the State Department of Education pursuant to the act adding this section, the State Department of Education shall conduct a study on the issue of sustainability of funding for low-performing schools. The issues to be addressed in this study shall include, but are not limited to, the following:

(1) An objective rather than a comparative view of the necessity of sustaining supplemental funding over time to address the ongoing needs of low-performing pupils, and the impact of policies that only provide funding over a specified period of time.

(2) An analysis of the ability of a school to sustain growth in academic achievement, particularly when the pupil population that continuously attends the school manifests issues of poverty and low socioeconomic status, and other characteristics that are generally out of the direct control of the school.

SEC. 6. Section 52058 of the Education Code is amended to read:

52058. (a) Each school district with schools participating in the Immediate Intervention/Underperforming Schools Program established pursuant to Section 52053 <u>and the High Priority Schools Grant Program for Low Performing Schools established pursuant to Section 52055.600</u> shall submit to the Superintendent of Public Instruction an evaluation of the impact, costs, and benefits of the program as it relates to the school district and the schools under its jurisdiction that are participating in the program and whether or not the schools met their growth targets, with an analysis of the reasons why the schools have or have not met those growth targets. Costs to develop and submit the evaluation shall be funded with resources provided pursuant to Article 3 (commencing with Section 52053). The evaluation shall be submitted by November 30, subsequent to the first full year of action plan implementation by participating schools, and on November 30, of each year thereafter.

(b) By January 15, 2000, the Superintendent of Public Instruction shall develop, and the State Board of Education shall approve, the guidelines for a request for proposal for an independent evaluator as described in this subdivision. By September 1, 2000, the Superintendent of Public Instruction shall contract with an independent evaluator to prepare a comprehensive evaluation of the implementation, impact, costs, and benefits of the Immediate Intervention/Underperforming Schools Program, <u>the High Priority Schools Grant Program for Low Performing Schools,</u> and the High Achieving/Improving Schools Program. The preliminary results of the evaluation shall be disseminated to the Legislature, the Governor, and interested parties no later than March 31, 2002, with a final report no later than June 30, 2002. The final report shall include recommendations for necessary or desirable modifications to the programs established pursuant to this chapter.

(c) The evaluations shall consider all of the following:

(1) Pupil performance data, including, but not limited to, results of assessments used to determine whether or not schools have made significant progress towards meeting their growth targets.

(2) Program implementation data, including, but not limited to, a review of startup activities, community support, parental participation, staff development activities associated with implementation of the program, percentage of fully credentialed teachers, percentage of teachers who hold emergency credentials, percentage of teachers assigned outside their

subject area of competence, the accreditation status of the school if appropriate, average class size per grade level, and the number of pupils in a multitrack year-round educational program.

(3)(A) Pupil performance data, and its impact on the API, for each of the following subgroups:

(i) English language learners.

(ii) Pupils with exceptional needs.

(iii) Pupils that qualify for free or reduced price meals and are enrolled in schools that receive funds under Chapter 1 of the federal Elementary and Secondary Education Act of 1965, as amended by the Augustus F. Hawkins–Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (P.L. 100–290).

(B) Information concerning individual pupils may not be disclosed in the process of preparing pupil performance data pursuant to this subdivision.

(d) The Superintendent of Public Instruction shall recommend and the State Board of Education shall approve a schedule for biennial evaluations of the programs established pursuant to this chapter, subsequent to the evaluation required by this section. The biennial evaluations shall be submitted, with appropriate recommendations, by June 30 of every odd-numbered year, commencing with the year 2003.

SEC. 7. Item 6110–123–0001 of Section 2.00 the Budget Act of 2001 is amended to read:

6110—23-0001–For local assistance, Department of Education (Proposition 98), for implementation of the Public Schools Accountability Act, pursuant to Chapter 6.1 (commencing with Section 52050) of Part 28 of the Education Code 514,970,000

Schedule:

(1) 20.60.030.031–Immediate Intervention/Underperforming Schools Program 160,970,000

(2) 20.60.030.032–High Achieving/Improving Schools Program 157,000,000

(3) 20.60.030.034–Low-Performing Schools 197,000,000

Provisions:

1. Funds appropriated in Schedule (1) are provided solely for the purpose of implementing the Immediate Intervention/Underperforming Schools Program, pursuant to Article 3 of Chapter 6.1 (commencing with Section 52053) of Part 28 of the Education Code. Of this amount, $21,500,000 is for the purpose of providing planning grants of $50,000 each to a third cohort of new schools, and the remainder is provided to fully fund implementation grants for the first and second cohorts of schools that received planning grants under the program during the 1999–00 and 2000–01 fiscal years.

2. Funds appropriated in Schedule (2) are provided solely for the purpose of implementing the Governor's High Achieving/Improving Schools Program, pursuant to Article 4 of Chapter 6.1 (commencing with Section 52056) of Part 28 of the Education Code.

3. Funds appropriated in Schedule (3) are provided solely for the purpose of implementing a low-performing school program, pursuant to legislation enacted during the 2001–02 Regular Session.

SEC. 8. (a) Notwithstanding any other provision of law, funds appropriated in Schedule (3) of Item 6110–123–0001 of Section 2.00 of the Budget Act of 2001 shall be available through the 2003–04 fiscal year for implementation of the High Priority Schools Grant Program for Low Performing Schools established pursuant to Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28 of the Education Code, including providing planning grants authorized by Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28 of the Education Code and implementation grants authorized by Article 3 (commencing with Section 52053) of, and Article 3.5 (commencing with Section 52055.600) of, Chapter 6. 1 of Part 28 of the Education Code for those schools participating in each of those programs.

(b) The sum of three million dollars ($3,000,000) is hereby appropriated from the General Fund to the State Department of Education in augmentation of Item 6110–001–0001 of

Section 2.00 of the Budget Act of 2001 to provide training for individuals who wish to function as external evaluators pursuant to Section 52054 or as members of a school assistance and intervention team pursuant to Section 52055.51 and for costs associated with the administration and oversight of the High Priority Schools Grant Program for Low Performing Schools established pursuant to Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28 of the Education Code and the Immediate Intervention/Underperforming Schools Program established pursuant to Article 3 (commencing with Section 52053 of Part 28 of the Education Code and may be expended to fund up to 18 positions in the department.

SEC. 9. It is the intent of the Legislature to appropriate funds for purposes of this article for the 2002–03 fiscal year and for subsequent fiscal years.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

California is experiencing a crisis with respect to the learning development and achievement of millions of pupils in California's public schools, and the program proposed by this act is designed and enacted to enable these pupils to progress and to succeed, and there is no time to waste in meeting the needs of these pupils. Therefore, in order to begin implementation of the High Priority Schools Grant Program for Low Performing Schools during the 2001–02 fiscal year, it is necessary that this act take effect immediately.

GOVERNOR'S REDUCTION MESSAGE

I am signing Assembly Bill 961, however I am reducing the appropriation made in section 8 of this bill by $2,142,000. This section would appropriate $3.0 million to the Department of Education for training and administration costs associated with this program. Absent a detailed expenditure plan from the Department of Education justifying this need, I am unable to support an augmentation in excess of that which I believe is necessary to begin implementation of this program.

While I am signing this bill, I am concerned that numerous sections within this bill are unclear and may be interpreted in a way not intended, potentially resulting in significant costs. I am signing this bill with the understanding that the author will introduce urgency legislation to clean up these issues.

GRAY DAVIS, Governor

STATE AGENCIES—REPORTS—REQUIREMENTS

CHAPTER 745

S.B. No. 1191

AN ACT to amend Sections 4425, 6086.15, 6094.5, 7011.8, and 7017 of, and to repeal Sections 1616.1 and 12029 of, the Business and Professions Code, to amend Section 116.950 of the Code of Civil Procedure, to amend Sections 30.5, 8215, 8358, 8451, 32237, 32239.5, 35179.2, 44252.9, 44259.5, 44279.2, 44784, 49413, 52052, 52656, 54696, 56885, 58523, 60810, 66015, 66755, 67301, 67359.20, 71028, 87104, 89753, 89761, and 99306 of, and to repeal Sections 15750, 17001.5, 44329, 49590.5, 58922, 66293, 69733, 72681, 78217, and 99105 of, the Education Code, to amend Section 7571 of the Family Code, to repeal Sections 256, 8052, and 32955 of the Financial Code, to amend Sections

1000.5, 1796, 2079, 2645, 3409, 3951, 4904, 6450, and 6599 of, and to repeal Sections 2099, 6459, and 16533 of, the Fish and Game Code, to amend Sections 13135 and 76906 of, and to repeal Sections 4101.5, 13127.93, and 14104 of, the Food and Agricultural Code, to amend Sections 3114, 7585, 8654.1, 8670.55, 8879.3, 10242.5, 10601, 11007, 14070.2, 14660.1, 15277, 15333.3, 15333.4, 15378, 15813.6, 17562, 19793, 19993.05, 21662, 27279.4, 30401, 51207, 54238.7, 68511.2, 68604, 77009, 77604, 77605, and 77654 of, and to repeal Sections 8855.5, 8855.7, 8855.8, 11815, 11818, 12095.60, 13332.06, 13336.5, 14035.6, 15301.5, 16582, 16649.91, 30606, 65302.6, 67523, 70219, 75060.3, 75560.3, 92204, and 96103 of, the Government Code, to amend Sections 1200 and 3927 of, and to repeal Sections 65.8 and 658.6 of, the Harbors and Navigation Code, to amend Sections 1342.1, 1422, 11759.4, 18400.1, 25200.11, 25200.14.1, 25200.17, 25299.97, 33760, 34312.3, 39153, 44003, 46077, 50408, 50834, 57007, 104145, 104370, 108875, 119308, 120475, 120480, 120805, and 123775 of, and to repeal Sections 13143.10, 25171, 25171. 5, 25245.6, 25269.9, 40453, 50806, 52045, 52570, 100146, and 100340 of, the Health and Safety Code, to amend Sections 10089.40 and 12693.93 of, and to repeal Section 10890 of, the Insurance Code, to amend Section 3214 of the Labor Code, to amend Section 1335 of the Military and Veterans Code, to amend Sections 1001.65, 7433, 13602, and 13731 of, and to repeal Sections 1170.6, 9008, 13510.6, and 13892 of, the Penal Code, to repeal Sections 10350 and 12104 of the Public Contract Code, to amend Sections 5094.2, 5096.244, 5631, 6211, 6230, 6231, 6477, 6916, 14314, 14537, 25403.5, 31108, 31163, 42005, 42871, and 71040 of, and to repeal Sections 674, 5017, 5780.17, 9756, 19524, 22052, and 25310.5 of, the Public Resources Code, to amend Sections 383, 398.5, 495.7, 739.3, 28767.3, 130292, and 132410 of the Public Utilities Code, to amend Section 7273 of the Revenue and Taxation Code, to amend Sections 100, 30796.9, 30950.3, and 30961 of, and to repeal Sections 1965 and 30895 of, the Streets and Highways Code, to amend Sections 5007, 9616, 9616.1, 10532, 15037, 15076.5, and 17002 of, and to repeal Sections 1088.7, 1274.05, 5202, 9614, 9616.5, and 10522 of, the Unemployment Insurance Code, to amend Sections 1810.7, 5023, 14602.1, and 35581 of, and to repeal Section 2936 of, the Vehicle Code, to amend Sections 8610, 11912, 12830, 12875, 12879.5, 12890.4, and 12939 of, and to repeal Sections 232, 10010, 10756, 11156, 12308, 12928.5, 12929.47, 13467, 14014, and 14919 of the Water Code, to amend Sections 4640.6, 4669.75, 5673, 10609.5, 10740, 10790, 11329, 11450.3, 11461.1, 11487.5, 14017.1, 14085.5, 14103.2, 14104.3, 14132, 14132.90, 14133.5, 14138.5, 14145.1, 14148, 14148.8, 14501, 16500.5, 18206, and 18240 of, and to repeal Sections 366.28, 5586, 10603.3, 14618, 15452, and 18214 of, the Welfare and Institutions Code, to amend Section 1 of Chapter 74 of the Statutes of 1978, to repeal Section 3 of Chapter 1523 of the Statutes of 1985, to amend Section 2 of Chapter 1495 of the Statutes of 1988, to amend Section 1 of Chapter 1350 of the Statutes of 1989, to repeal Section 1 of Chapter 674 of the Statutes of 1990, to amend Section 1 of Chapter 1621 of the Statutes of 1990, to repeal Section 2 of Chapter 1012 of the Statutes of 1993, to repeal Resolution Chapter 100 of the Statutes of 1995, and to amend Section 2 of Chapter 881 of the Statutes of 1997, relating to reports submitted to the Legislature, the Governor, and state entities, and declaring the urgency thereof, to take effect immediately.

[Filed with Secretary of State October 12, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1191, Speier. State and local reporting requirements.

Existing law requires or requests various state and local agencies to prepare and submit reports to the Governor, the Legislature, or other state entities.

This bill would revise or delete certain reporting requirements for state and local agencies, and delete obsolete references.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 1616.1 of the Business and Professions Code is repealed.

SEC. 2. Section 4425 of the Business and Professions Code is amended to read:

4425. (a) As a condition of a pharmacy's participation in the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000) of Division 9 of the Welfare and Institutions Code, the pharmacy, upon presentation of a valid prescription for the patient and the patient's Medicare card, shall charge Medicare beneficiaries a price that does not exceed the Medi-Cal reimbursement rate for prescription medicines, and an amount, as set by the State Department of Health Services to cover electronic transmission charges. However, Medicare beneficiaries shall not be allowed to use the Medi-Cal reimbursement rate for over-the-counter medications or compounded prescriptions.

their staff and pupils understand the importance of this training and have an appropriate opportunity to develop these skills.

(b) A school district or school, individually or jointly with another school district or school, may provide a comprehensive program in first aid or cardiopulmonary resuscitation (CPR) training, or both, to pupils and employees. The program shall be developed using the following guidelines:

(1) The school district or school collaborates with existing local resources, including, but not limited to, parent teacher associations, hospitals, school nurses, fire departments, and other local agencies that promote safety, to make first aid or CPR training, or both, available to the pupils and employees of the school district or school.

(2) Each school district that develops a program, or the school district that has jurisdiction over a school that develops a program, compiles a list of resources for first aid or CPR information, to be distributed to all of the schools in the district.

(3) The first aid and CPR training are based on standards that are at least equivalent to the standards currently used by the American Red Cross or the American Heart Association.

* * *

SEC. 23. Section 49590.5 of the Education Code is repealed.

SEC. 24. Section 52052 of the Education Code is amended to read:

52052. (a)(1) By July 1, 1999, the Superintendent of Public Instruction, with approval of the State Board of Education, shall develop an Academic Performance Index (API), to measure the performance of schools, especially the academic performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools.

(2) For purposes of this section, a numerically significant ethnic or socioeconomically disadvantaged subgroup is a subgroup that constitutes at least 15 percent of a school's total pupil population and consists of at least 30 pupils. An ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at a school.

(3) The API shall consist of a variety of indicators currently reported to the State Department of Education including, but not limited to, the results of the achievement test administered pursuant to Section 60640, attendance rates for pupils and certificated school personnel for elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools.

(A) The pupil data collected for the API that comes from the achievement test administered pursuant to Sections 60640 and 60644 and the high school exit examination administered pursuant to Section 60851, when fully implemented, shall be disaggregated by special education status, English language learners, socioeconomic status, gender and ethnic group. Only the test scores of pupils who were enrolled in a school district in the prior fiscal year may be included in the test results reported in the API. Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index.

(B) Before including high school graduation rates and attendance rates in the index, the Superintendent of Public Instruction shall determine the extent to which the data is currently reported to the state and the accuracy of the data.

* * *

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The assessment of the applied academic skills matrix test developed pursuant to Section 60604.

(2) The nationally normed test as augmented pursuant to paragraph (1) of subdivision (f) of Section 60644.

(3) The high school exit examination.

(c) Based on the API, the Superintendent of Public Instruction shall develop, and the State Board of Education shall adopt, expected annual percentage growth targets for all schools based on their API baseline score as measured in July 1999. Schools are expected to meet these growth targets through effective allocation of available resources. For schools below the statewide API performance target adopted by the State Board of Education pursuant to subdivision (d), the minimum annual percentage growth target shall be 5 percent of the difference between a school's actual API score and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target shall have, as their growth target, maintenance of their API score above the statewide API performance target. However, the State Board of Education may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement. To meet its growth target, a school shall demonstrate that the annual growth in its API is equal to or more than its schoolwide annual percentage growth target and that all numerically-significant ethnic and socioeconomically disadvantaged subgroups, as defined in subdivision (a) of Section 52052, are making comparable improvement.

(d) Upon adoption of state performance standards by the State Board of Education, the Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target. When fully developed, schools may either meet the state target or meet their growth targets to be eligible for the Governor's Performance Award Program as set forth in Section 52057.

(e) Beginning in June 2000, the API shall be used for both of the following:

(1) Measuring the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Ranking all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

(f) Only comprehensive high schools, middle schools, and elementary schools that have a population of 100 or more pupils may be included in the API ranking.

(g) By July 1, 2000, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall develop an alternative accountability system for schools with fewer than 100 pupils, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools.

SEC. 25. Section 52656 of the Education Code is amended to read:

52656. (a) Notwithstanding any other provision of law, school districts that received apportionment for extraordinary needs in English as a second language and basic skills from Provision (4) of Schedule (a) of Item 6110–156–001 of the Budget Act of 1991 for the 1991–92 fiscal year shall continue to receive those funds in the school district's adult block entitlement in the 1992–93 fiscal year, and each fiscal year thereafter.

(b) Commencing in the 1993–94 fiscal year, school districts that receive an apportionment from subdivision (a) shall give priority to eligible immigrants in need of courses pursuant to paragraphs (2), (3), and (4) of subdivision (a) of Section 41976 and Section 52653 of the Education Code.

* * *

(c) School districts are not restricted by this chapter from providing classes for immigrants pursuant to paragraph (4) of subdivision (a) of Section 41976 of the Education Code with other funds for adult education that are available to the district.

SEC. 26. Section 54696 of the Education Code is amended to read:

54696. (a) The Superintendent of Public Instruction shall contract for a four-year independent review of the effectiveness of the newly funded California Partnership Academies. Preliminary results shall be reported after the 1994–95 fiscal year and a final evaluation shall be performed after the 1996–97 fiscal year. * * * The independent review shall include, but not be limited to, all of the following:

(c) Of the funds appropriated for the purpose authorized in paragraphs (1) and (2) of subdivision (a), no more than two hundred seventy thousand dollars ($270,000) may be expended in any fiscal year for costs of administering the programs authorized thereby.

SEC. 276. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that state and local agencies may be relieved of the burden of preparing unessential reports at the earliest possible time, it is necessary that this act take effect immediately.

MAINTENANCE OF CODES

CHAPTER 159

S.B. No. 662

AN ACT to amend Sections 27, 113, 130, 144, 350, 1647.11, 2570.6, 2570.8, 2570.19, 2995, 3059, 3364, 3403, 4059, 4312, 4980.80, 4980.90, 4996.6, 5111, 5536, 6403, 6716, 6730.2, 6756, 7092, 7583.11, 8027, 8773.4, 10167.2, and 21702 of the Business and Professions Code, to amend Sections 1748.10, 1748.11, 1810.21, 2954.4, 2954.5, and 3097 of, and to amend and renumber Section 1834.8 of, the Civil Code, to amend Sections 403.020, 645.1, 674, and 699.510 of the Code of Civil Procedure, to amend Sections 9323, 9331, and 9408 of the Commercial Code, to amend Sections 2200, 6810, 17540.3, 25102, 25103, and 25120 of the Corporations Code, to amend Sections 313, 406, 426, 427, 11700, 17071.46, 17210, 17317, 17610.5, 22660, 22950, 25933, 33126.1, 37252, 37252.2, 37619, 41329.1, 42239, 44114, 45023.1, 48664, 52054, 52270, 52485, 54749, 56045, 56845, 69432.7, 69434.5, 69437.6, 69439, 69613.1, 87164, and 92901 of, and to amend and renumber Sections 45005.25 and 45005.30 of, the Education Code, to amend Sections 1405, 8040, 9118, and 15375 of the Elections Code, to amend Section 17504 of the Family Code, to amend Sections 761.5, 4827, 16024, 16501, and 18586 of the Financial Code, to amend Sections 1506, 2921, and 8276.3 of the Fish and Game Code, to amend Sections 492, 6046, and 75131 of the Food and Agricultural Code, to amend Sections 3543.4, 3562.2, 3583.5, 6254, 6516.6, 6599.2, 7074, 18935, 20028, 20300, 20392, 21006, 21547.7, 30064.1, 31461.3, 31681.55, 31835.02, 38773.6, 55720, 65584, 65585.1, and 75059.1 of the Government Code, to amend Sections 444.21, 1358.11, 11836, 11877.2, 17922, 25358.6.1, 39619.6, 104170, 105112, 111656.5, 111656.13, 114145, 123111, and 124900 of, to amend and renumber Section 104320 of, and to amend and renumber the heading of Article 10.5 (commencing with Section 1399.801) of Chapter 2.2 of Division 2 of, the Health and Safety Code, to amend Sections 789.8, 1215.1, 1871, 1872.83, 10123.135, 10178.3, 10192.11, 10231.2, 10236, 10506.5, 11621.2, 11784, 11786, 11787, and 12698 of the Insurance Code, to amend Sections 90.5, 129, 230.1, 4455, and 4609 of the Labor Code, to amend Section 1048 of the Military and Veterans Code, to amend Sections 272, 417.2, 646.94, and 3058.65 of the Penal Code, to amend Sections 1813 and 16062 of the Probate Code, to amend Sections 10129 and 20209.7 of the Public Contract Code, to amend Sections 5090.51, 14581, 36710, and 42923 of the Public Resources Code, to amend Sections 383.5, 2881.2, 7943, 9608, 9610, and 12702.5 of, and to amend and renumber Section 399.15 of, the Public Utilities Code, to amend Sections 75.11, 75.21, 97.3, 214, 23622.8, 23646, 44006, and 45153 of the Revenue and Taxation Code, to amend Section 1110 of the Unemployment Insurance Code, to amend Section 4000.37 of the Vehicle Code, to amend Sections 1789.5, 4098.1, 5614, 8102, 10082, 14005.28, 14005.35, 14008.6, 14087.32, and 14105.26 of the Welfare and Institutions Code, and to amend Section 511 of the San Gabriel Basin Water Quality Authority Act (Chapter 776 of the Statutes of 1992), Section 1 of Chapter 352 of the Statutes of 2000, Section 1 of Chapter 661 of the Statutes of 2000, Section 2 of Chapter 693 of the Statutes of 2000, Sections 5 and 6 of the Naval Training Center San

subdivision (d) of Section 48915, other expulsion criteria, or referred through a formal district process.

(8) Pupil outcome data and other data as required under Section 48916.1.

(9) Other programmatic or fiscal matters as determined by the State Department of Education.

(f) The additional funds provided in subdivisions (a), (c), and (d) shall only be allocated to the extent that funds are appropriated for this purpose in the annual Budget Act or other legislation, or both, except for pupils expelled pursuant to subdivision (d) of Section 48915. For pupils expelled pursuant to subdivision (d) of Section 48915, the funds apportioned under subdivision (a) are continuously appropriated from the General Fund to Section A of the State School Fund.

(g) A one-time adjustment shall be made to the amount specified in subdivision (a), for the 1998–99 fiscal year and subsequent fiscal years, by increasing that amount by the statewide average quotient resulting from dividing the average daily attendance specified in subparagraph (B) of paragraph (3) of subdivision (a) of Section 42238.8 by the amount specified in subparagraph (C) of paragraph (3) of subdivision (a) of Section 42238.8.

SEC. 73. Section 52054 of the Education Code is amended to read:

52054. (a) By November 15 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program shall contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

(b) The selected external evaluator shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator shall do all of the following:

(1) Inform the parents and legal guardians, in writing, that the school has been selected to participate in the Immediate Intervention/Underperforming Schools Program due to its below average performance.

(2) Hold a public meeting at the school, in cooperation with the principal, to which all parents and legal guardians of pupils in the school receive a written invitation. The invitation to the meeting may be combined with the written notice required by paragraph (1).

(3) Solicit, at the public meeting, the recommendations and opinions of the participating parents and legal guardians of pupils in the school regarding actions that should be taken to improve the performance of the school. These opinions and recommendations shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section.

(4) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By February 15 of the school year in which the school is selected to participate, the selected external evaluator, in collaboration with the broad-based schoolsite and community team selected pursuant to subdivision (a), shall complete a review of the school that identifies weaknesses that contribute to the school's below average performance, make recommendations for improvement, and begin to develop an action plan to improve the academic performance of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the State Board of Education pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a

scope that requires reimbursement by the Commission on State Mandates for its implementation.

(d) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

(2) Identify the current barriers at the school and district toward improvements in pupil achievement.

(3) Identify schoolwide and districtwide strategies to remove these barriers.

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding the achievement of English language learners, pupils with exceptional needs, pupils who qualify for free and reduced price meals, and all pupils, by race, ethnicity, and gender.

(6) Set short-term academic objectives pursuant to Section 52052 for a two-year period that will allow the school to make adequate progress toward the growth targets established for each participating school for pupil achievement as measured by all of the following to the extent that the data is available for the school:

(A) The achievement test administered pursuant to Section 60640.

(B) Graduation rates for grades 7 to 12, inclusive.

(C) Attendance rates for pupils and school personnel for elementary, middle, and secondary schools.

(D) Any other indicators approved by the State Board of Education.

(e) The school action plan shall focus on improving pupil academic performance, improving the involvement of parents and guardians, improving the effective and efficient allocation of resources and management of the school, and identifying and developing solutions that take into account the underlying causes for low performance by pupils.

(f) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(g) The school action plan may propose to increase the number of instructional days offered at the schoolsite and also may propose to increase up to a full 12 months the amount of time for which certificated employees are contracted, if all of the following conditions are met:

(1) Provisions of the plan proposed pursuant to this subdivision do not violate current applicable collective bargaining agreements.

(2) An agreement is reached with the exclusive representative concerning staffing specifically to accommodate the extended school year or 12-month contract.

(h) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(i) Upon its completion, the action plan shall be submitted to the governing board of the school districts for its approval. After the plan is approved, but no later than May 15 of the year that follows the year the school is selected to participate, the plan shall be submitted to the Superintendent of Public Instruction with a request for funding in the form prescribed by the Superintendent of Public Instruction, who shall review the school action plan and recommend approval or disapproval of the school's request for funding to the State Board of Education.

(j) Not later than July 15 of the year next following the year in which a school is selected for participation, the State Board of Education shall review and approve or disapprove the school's request for funding, based on the recommendation of the Superintendent of Public Instruction. Within thirty days of the State Board of Education's review, the Superintendent of Public Instruction shall notify the effected school districts of the state of the board's action regarding the request for funding. In conjunction with its approval of a request for funding

to implement a school's action plan, the State Board of Education may, at the request of the governing board of the school district or the county board of education for a school under its jurisdiction, waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300.

SEC. 74. Section 52270 of the Education Code is amended to read:

52270. The Education Technology Grant Program is hereby established to provide one-time grants to school districts and charter schools for purposes of acquiring computers for instructional purposes at public schools. The Office of the Secretary for Education shall administer the application process for the award of grants.

(a) The first priority for the use of the funds is to ensure that high school pupils in schools offering three or fewer advanced placement courses have access to advanced placement courses online. Grants awarded for the first priority may be expended to purchase or lease computers and related equipment and for wiring or infrastructure necessary to achieve connectivity to online advanced placement courses.

(b) The second priority for the use of the funds is to increase the number of computers available to all other public schools that offer instruction in kindergarten or any of grades 1 to 12, inclusive. Grants awarded for the purposes of the second priority shall be awarded at the school district level and shall be based on a ratio of pupils per computer, as determined by the Office of the Secretary for Education. A school district that receives a grant shall award the funds to its schools that have the highest number of pupils per computer. Each education technology grant awarded based on the second priority shall only be used for the purchase or lease of computers including system configuration, software, and instructional material. The grant amount awarded to each school district or charter school for the second priority shall be determined by the Office of the Secretary for Education.

(c) All funds awarded pursuant to this section shall be used solely to purchase or lease equipment and related materials for instructional purposes and limited to classroom, library, or technology and media centers in order to provide access to online advanced placement courses for pupils and increase the number of computers per pupil. These grant funds are to supplement, not supplant, existing local, state, and federal education technology funds, including Digital High School funds.

(d) To receive a grant pursuant to this section, school districts and charter schools shall have developed an education technology plan or shall develop a plan with the assistance of the California Technology Assistance Project specifically for the use of the funds available pursuant to this section within 90 days after submission of the application for a grant pursuant to this chapter. The plan shall address the use of these and other technology funds to ensure they are used effectively and in a manner consistent with other education technology available at the schoolsite. School districts and charter schools that choose to lease equipment shall include in their technology plan a payment schedule and shall identify the funding source or sources for lease payments over the life of the lease, including, but not limited to, establishing a technology leasing account and amortizing the available state funding over the term of the lease, if appropriate. In addition, the term of the lease shall be no longer than four years unless authorized at local discretion, in which case the lease or purchase shall be funded at local expense. A school district or charter school with an existing certified or approved education technology plan developed pursuant to other provisions of law may utilize the existing plan for the purposes of this program but shall, if necessary, amend that plan to meet the requirements of this subdivision if the school district or charter school chooses to lease the computers.

(e) School districts and charter schools may purchase or lease computers, related equipment and materials, and other goods and services using any statewide or cooperative contracts, schedules, or other agreements, established by the Department of General Services.

SCHOOLS AND SCHOOL DISTRICTS—ACADEMIC ACHIEVEMENT—EVALUATION

CHAPTER 695

S.B. No. 1552

AN ACT to amend Sections 52052, 52052.3, 52053, 52054, 52054.5, 52055, 52055.5, 52056, 52057, and 52058 of the Education Code, and to amend Section 2 of Chapter 3 of the Statutes of 1999, relating to academic achievement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Filed with Secretary of State September 27, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1552, Alpert. Pupil Achievement: Public Schools Accountability Act of 1999.

(1) Existing law establishes the Public School Performance Accountability Program consisting of an Academic Performance Index, an Immediate Intervention/Underperforming Schools Program, and a High Achieving/Improving Schools Program. The Public School Performance Accountability Program requires the Superintendent of Public Instruction, with approval of the State Board of Education, to develop the Academic Performance Index (API), consisting of a variety of indicators, to be used to measure the performance of schools. A school selected to participate in the Immediate Intervention/Underperforming Schools Program is required to comply with certain requirements, including, but not limited to, completing an action plan to improve the academic achievement of the pupils enrolled at the school. Existing law requires the Superintendent of Public Instruction to annually publish API rankings, and requires the governing board of a school district to discuss the results at a regularly scheduled meeting.

Existing law appropriates $96,150,000 from the General Fund to the Superintendent of Public Instruction for allocation to school districts that meet or exceed the requirements of the Governor's High Achieving/Improving Schools Program, for allocation and expenditure in the 2001–02 fiscal year.

This bill would make clarifying changes in those provisions pertaining to the indicators used to evaluate the performance of schools in the API. The bill would instead make that appropriation available for allocation and expenditure in the 2000–01 fiscal year, thereby making an appropriation.

The bill would provide that the action plan may propose to increase up to a full 12 months the amount of time for which certificated employees are contracted, if prescribed conditions are met.

(2) The High Achieving/Improving Schools Program requires, by January 31, 2002, each school district with schools participating in the Immediate Intervention/Underperforming Schools Program to submit to the Superintendent of Public Instruction an evaluation of the impact, costs, and benefits of the program.

This bill would instead require that evaluation to be submitted by November 30, subsequent to the first full year of action plan implementation by participating schools and on November 30 of each subsequent year. By imposing new duties on school districts regarding deadlines for submitting this evaluation, the bill would impose a state-mandated local program.

(3) The Immediate Intervention/Underperforming Schools Program requires the Superintendent of Public Instruction, with the approval of the State Board of Education, to invite schools that scored below the 50th percentile on the statewide achievement tests administered in the Spring of 1998 and 1999 to participate in that program. Under existing law, schools selected for participation in the program are required to be notified by the Superintendent of Public Instruction no later than September 1 of each year.

This bill would require, by September 15 of each year, the Superintendent of Public Instruction, with the approval of the State Board of Education, to identify schools that failed to meet their API growth targets and that have an API below the 50th percentile relative to all other public elementary, middle, and high schools and to invite those schools to participate in the program, and would prescribe various matters related to participation, including, awarding a $50,000 planning grant to each school selected to participate on or before October 15, 2000, of each year.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(5) This bill would incorporate additional changes in Section 52057 of the Education Code, proposed by S.B. 961, to be operative only if S.B. 961 and this bill are both chaptered and become effective on or before January 1, 2001, and this bill is chaptered last.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 52052 of the Education Code is amended to read:

52052. (a)(1) By July 1, 1999, the Superintendent of Public Instruction, with approval of the State Board of Education, shall develop an Academic Performance Index (API), * * * to measure the performance of schools, especially the academic performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools.

(2) For purposes of this section, a numerically significant ethnic or socioeconomically disadvantaged subgroup is a subgroup that constitutes at least 15 percent of a school's total pupil population and consists of at least 30 pupils. An ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at a school.

(3) The API shall consist of a variety of indicators currently reported to the State Department of Education including, but not limited to, the results of the achievement test administered pursuant to Section 60640, attendance rates for pupils and certificated school personnel for elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools.

(A) The pupil data collected for the API that comes from the achievement test administered pursuant to Sections 60640 and 60644 and the high school exit examination administered pursuant to Section 60851, when fully implemented, shall be disaggregated by special education status, English language learners, socioeconomic status, gender and ethnic group. Only the test scores of pupils who were enrolled in a school district * * * in the prior fiscal year may be included in the test results reported in the API. Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index.

(B) Before including high school graduation rates and attendance rates in the index, the Superintendent of Public Instruction shall determine the extent to which the data is currently reported to the state and the accuracy of the data.

(C) If the Superintendent of Public Instruction determines that accurate data for these indicators is not available, the Superintendent of Public Instruction shall report to the Governor and the Legislature by September 1, 1999, and recommend necessary action to implement an accurate reporting system.

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The assessment of the applied academic skills matrix test developed pursuant to Section 60604.

(2) The nationally normed test as augmented pursuant to paragraph (1) of subdivision (f) of Section 60644.

(3) The high school exit examination.

(c) Based on the API, the Superintendent of Public Instruction shall develop, and the State Board of Education shall adopt, expected annual percentage growth targets for all schools based on * * * their API baseline score as measured in July 1999. Schools are expected to meet these growth targets through effective allocation of available resources. For schools below the statewide API performance target adopted by the State Board of Education pursuant to subdivision (d), the minimum annual percentage growth target shall be 5 percent * * * of the difference between a school's actual API score and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target shall have, as their growth target, maintenance of their API score above the statewide API performance target. However, the State Board of Education may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement. To meet its growth target, a school shall demonstrate that the annual growth in its API is equal to or more than its schoolwide annual percentage growth target and that all numerically-significant ethnic and socioeconomically disadvantaged subgroups, as defined in subdivision (a) of Section 52052, are making comparable improvement.

(d) Upon adoption of state performance standards by the State Board of Education, the Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target. When fully developed, schools may either meet the state target or meet their growth targets to be eligible for the Governor's Performance Award Program as set forth in Section 52057.

(e) Beginning in June 2000, the API shall be used for both of the following:

(1) Measuring the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Ranking all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

(f) Only comprehensive high schools, middle schools, and elementary schools that have a population of 100 or more pupils may be included in the API ranking.

(g) By July 1, 2000, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall develop an alternative accountability system for schools with fewer than 100 pupils, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools.

SEC. 2. Section 52053 of the Education Code is amended to read:

52053. (a) The Immediate Intervention/Underperforming Schools Program is hereby established. By August 15, 1999, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall invite schools that scored below the 50th percentile on the achievement tests administered pursuant to Section 60640 both in the spring of 1998 and in the spring of 1999 to participate in the Immediate Intervention/Underperforming Schools Program. A school invited to participate may take any action not otherwise prohibited under state or federal law and that would not require reimbursement by the Commission on State Mandates to improve pupil performance.

(b) The total number of schools participating in the program in 1999 shall be 430. Unless subdivision (d) applies, schools that apply will be selected based on the order in which they apply within ranks of deciles, not to exceed 86 per decile, within the following grade level categories:

(1) No more than 301 elementary schools.

(2) No more than 78 middle schools.

(3) No more than 52 high schools.

(c) The 86 schools selected within each decile range pursuant to subdivision (b) shall proportionately represent elementary, middle, and high schools and shall provide statewide proportionate geographic representation of urban and rural schools.

(d) If fewer than the number of schools in any grade level category apply, schools that scored below the 50th percentile in those grade level categories that did not apply for the program shall randomly be selected by the Superintendent of Public Instruction, with the approval of the State Board of Education, to participate based on their proportional representation in the state until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(e) If more than the requisite number of schools apply for any grade level category, the Superintendent of Public Instruction shall select an array of schools that reflect a broad range of academic performance of schools that scored below the 50th percentile, until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(f) A school selected to participate on or before September 1, 1999, shall be awarded a planning grant from funds appropriated pursuant to paragraph (1) of subdivision (a) of Section 2 of the act adding this section in the amount of fifty thousand dollars ($50,000). A school selected to receive federal funds pursuant to paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall be awarded an implementation grant in an amount of at least fifty thousand dollars ($50,000) pursuant to Public Law 105–78.

(g) Schools receiving funding under paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall comply with Public Law 105–78.

(h) By September 15, 2000, and each year thereafter, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall identify schools that failed to meet their Academic Performance Index (API) growth targets and that have an API below the 50th percentile relative to all other public elementary, middle or high schools. The Superintendent of Public Instruction shall invite these schools to participate in the Immediate Intervention/Underperforming Schools Programs. A school invited to participate may take any action to improve pupil performance not otherwise prohibited under state or federal law and that would not require reimbursement by the Commission on State Mandates.

(i) The total number of schools selected for participation in the program shall be no more than the number that can be funded through the total appropriation for the planning grants referenced in subdivision (*l*) below.

(j) If fewer schools apply for participation than can be funded, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall randomly select the balance of schools from schools eligible to participate that did not apply. Insofar as possible, the schools randomly selected should reflect a representative proportion of elementary, middle and high schools, as well as a broad range of academic achievement.

(k) If more schools apply for participation than can be funded, the schools shall be selected on the order in which they apply. Insofar as possible, the schools randomly selected should reflect a representative proportion of elementary, middle and high schools, as well as a broad range of academic achievement.

(*l*) A school selected to participate on or before October 15, 2000, and each year thereafter, shall be awarded a planning grant from funds appropriated pursuant to this act of fifty thousand dollars ($50,000).

(m) Schools selected for participation in the program shall be notified by the Superintendent of Public Instruction no later than * * * October 15 of each year.

SEC. 2.5. Section 52052.3 of the Education Code, as added by Chapter 71 of the Statutes of 2000, is amended to read:

52052.3. Test scores of pupils who are in the first year of enrollment in a high school district, but who, in the prior year, were enrolled in an elementary school district that normally matriculates to the high school district, shall be included in the Academic Performance Index, as provided in Section 52052.

SEC. 3. Section 52054 of the Education Code is amended to read:

52054. (a) By * * * November 15 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program shall contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

(b) The selected external evaluator shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator shall do all of the following:

(1) Inform the parents and legal guardians, in writing, that the school has been selected to participate in the Immediate Intervention/Underperforming Schools Program due to its below average performance.

(2) Hold a public meeting at the school, in cooperation with the principal, to which all parents and legal guardians of pupils in the school receive a written invitation. The invitation to the meeting may be combined with the written notice required by paragraph (1).

(3) Solicit, at the public meeting, the recommendations and opinions of the participating parents and legal guardians of pupils in the school regarding actions that should be taken to improve the performance of the school. These opinions and recommendations shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section.

(4) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By February 15 of the school year * * * in which the school is selected to participate, the selected external evaluator, in collaboration with the broad-based schoolsite and community team selected pursuant to subdivision (a), shall complete a review of the school that identifies weaknesses that contribute to the school's below average performance * * *, make recommendations for improvement * * *, and begin to develop an action plan to improve the academic performance of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the State Board of Education pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a scope that requires reimbursement by the Commission on State Mandates for its implementation.

(d) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

(2) Identify the current barriers at the school and district toward improvements in pupil achievement.

(3) Identify schoolwide and districtwide strategies to remove these barriers.

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding the achievement of English language learners, * * * pupils * * * with exceptional needs, pupils who qualify for free and reduced price meals, and all pupils, by race, ethnicity, and gender.

(6) Set short-term academic objectives pursuant to Section 52052 for a two-year period that will allow the school to make adequate progress toward the growth targets established for

each participating school for pupil achievement as measured by all of the following to the extent that the data is available for the school:

(A) The achievement test administered pursuant to Section 60640.

(B) Graduation rates for grades 7 to 12, inclusive.

(C) Attendance rates for pupils and school personnel for elementary, middle, and secondary schools.

(D) Any other indicators approved by the State Board of Education.

(e) The school action plan shall focus on improving pupil academic performance, improving the involvement of parents and guardians, improving the effective and efficient allocation of resources and management of the school, and identifying and developing solutions that take into account the underlying causes for low performance by pupils.

(f) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(g) The school action plan may propose to increase the number of instructional days offered at the schoolsite and also may propose to increase up to a full 12 months the amount of time for which certificated employees are contracted, if all of the following conditions are met:

(1) Provisions of the plan proposed pursuant to this subdivision shall not violate current applicable collective bargaining agreements.

(2) An agreement is reached with the exclusive representative concerning staffing specifically to accommodate the extended school year or 12-month contract.

(h) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(i) Upon its completion, the action plan shall be submitted to the governing board of the school districts for its approval. After the plan is approved, but no later than May 15 of the year that follows the year the school is selected to participate, the plan shall be submitted to the Superintendent of Public Instruction with a request for funding in the form prescribed by the Superintendent of Public Instruction, who shall review the school action plan and recommend approval or disapproval of the school's request for funding to the State Board of Education.

(j) Not later than July 15 of the year next following the year in which a school is selected for participation, the State Board of Education shall review and approve or disapprove the school's request for funding, based on the recommendation of the Superintendent of Public Instruction. Within thirty days of the State Board of Education's review, the State Superintendent of Public Instruction shall notify the effected school districts of the state of the board's action regarding the request for funding. In conjunction with its approval of a request for funding to implement a school's action plan, the State Board of Education may * * *, at the request of the governing board of the school district or the county board of education for a school under its jurisdiction, waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300.

SEC. 4. Section 52054.5 of the Education Code is amended to read:

52054.5. * * * Subject to the appropriation of funds for this purpose in the Budget Act, a school whose application is approved shall receive a grant for implementing the program, in each subsequent fiscal year that it participates in the program, in an amount up to two hundred dollars ($200) per pupil enrolled in the school, with a minimum allocation of fifty thousand dollars ($50,000) per schoolsite. * * * As a condition of receiving this funding, a participating school or the school district having jurisdiction over that school shall match the amount of state funding from any new or existing sources of funding. To help meet this matching requirement, a participating school and the governing board of the school district having jurisdiction over that school shall receive maximum flexibility in the expenditure of any new or existing categorical funds not otherwise prohibited by state or federal law and

shall redirect for the purposes of their academic improvement plan new or existing categorical or general purpose funds.

SEC. 5. Section 52055 of the Education Code is amended to read:

52055. The governing board of a school that fails to meet its annual short-term growth target within 12 months following receipt of funding pursuant to Section 52054.5 shall hold a public hearing at a regularly scheduled meeting to ensure that members of the school community are aware of the lack of progress. The governing board of the school district shall, upon consultation with the external evaluator and the schoolsite and community team selected pursuant to Section 52054, choose from a range of interventions for the school, including reassignment of school personnel to the extent authorized by law, negotiation of site-specific amendments to collective bargaining agreements, or other changes deemed appropriate, in order to continue implementing the action plan approved pursuant to Section 51054, and to make progress toward meeting the school's growth target.

SEC. 6. Section 52055.5 of the Education Code is amended to read:

52055.5. (a) * * * Twenty-four months after receipt of funding pursuant to Section 52054.5, a school that * * * has met or exceeded its growth target each year shall receive a monetary or nonmonetary award, under the Governor's Performance Award Program, as set forth in Section 52057. Funds received * * * pursuant to that section may be used at the school's discretion.

(b) * * * Twenty-four months after receipt of funding pursuant to Section 52054.5, a school that has not met its * * * growth targets each year, but demonstrates significant growth, as determined by the State Board of Education, shall continue to participate in the program for an additional year and to receive funding in the amount specified in Section 52054.5. Thirty-six months after receipt of funds pursuant to Section 52054.5, a school is no longer eligible to receive funding pursuant to that section.

(c) A school that does not meet its * * * growth targets within * * * the periods described in either subdivision (a) or (b), as applicable, and has failed to show significant growth, as determined by the State Board of Education, shall be deemed a low-performing school. Notwithstanding any other provision of law, the Superintendent of Public Instruction shall assume all the legal rights, duties, and powers of the governing board with respect to that school. The Superintendent of Public Instruction, in consultation with the State Board of Education and the governing board of the school district, shall reassign the principal of that school subject to the findings in subdivision (e). In addition to reassigning the principal, the Superintendent of Public Instruction, in consultation with the State Board of Education, shall, notwithstanding any other provision of law, do at least one of the following:

(1) Revise attendance options for pupils to allow them to attend any public school in which space is available. If additional attendance options are made available, nothing in this option shall be construed to require either the sending or receiving school district to incur additional transportation costs.

(2) Allow parents to apply directly to the State Board of Education for the establishment of a charter school and allow parents to establish the charter school at the existing schoolsite.

(3) Under the supervision of the Superintendent of Public Instruction, assign the management of the school to a college, university, county office of education, or other appropriate educational institution. However, the Superintendent of Public Instruction may not assume the management of the school.

(4) Reassign other certificated employees of the school.

(5) Renegotiate a new collective bargaining agreement at the expiration of the existing collective bargaining agreement.

(6) Reorganize the school.

(7) Close the school.

(d) In addition to the actions listed in subdivision (c), the Superintendent of Public Instruction, in consultation with the State Board of Education, may take any other action considered necessary or desirable against the school district or the school district governing board, including appointment of a new superintendent or suspension of the authority of the governing board with respect to the school or schools identified pursuant to subdivision (c).

(e) Before the Superintendent of Public Instruction may take any action against a principal pursuant to subdivision (c), the Superintendent of Public Instruction or a designee of the superintendent shall hold a public hearing on the matter in the school district and make both of the following findings:

(1) A finding that the principal had the authority to take specific enumerated actions that would have helped the school meet its performance goals.

(2) A finding that the principal failed to take specific enumerated actions pursuant to paragraph (1).

(f) An action taken pursuant to subdivision (c), (d), or (e) shall not increase local costs or require reimbursement by the Commission on State Mandates.

(g) An action taken pursuant to subdivision (c), (d), or (e) shall be accompanied by specific findings by the Superintendent of Public Instruction and the State Board of Education that the action is directly related to the identified causes for continued failure by a school to meet its performance goals.

SEC. 7. Section 52056 of the Education Code is amended to read:

52056. (a) The High Achieving/Improving Schools Program is hereby established. Commencing in June 2000, and every June thereafter, the Superintendent of Public Instruction, with approval of the State Board of Education, shall rank all public schools based on the Academic Performance Index established pursuant to Section 52052. The schools shall be ranked by the value of the API in decile categories by grade level of instruction provided and shall include three categories: elementary, middle, and high school. The schools shall also be ranked by the value of the API when compared to schools with similar characteristics. Commencing in June 2001, the * * * Superintendent of Public Instruction shall also report the target annual growth rates of schools, and the actual growth rates attained by the schools * * *. For purposes of this section, similar characteristics include, but are not limited to, the following characteristics, insofar as data is available from the State Department of Education's data: pupil mobility, pupil ethnicity, pupil socioeconomic status, percentage of teachers who are fully credentialed, percentage of teachers who hold emergency credentials, percentage of pupils who are English language learners, average class size per grade level, and whether the schools operate multitrack year-round educational programs. The Superintendent of Public Instruction shall annually publish these rankings on the Internet.

(b) * * * All schools shall report their ranking, including a description of the components of the API, in their annual school accountability report card pursuant to Sections 33126 and 35256.

(c) * * * Following the annual publication of the API and school rankings by the Superintendent of Public Instruction, the governing board of each school district shall discuss the results of the annual ranking at * * * the next regularly scheduled meeting.

SEC. 8. Section 52057 of the Education Code is amended to read:

52057. (a) The State Board of Education shall establish a Governor's Performance Award Program to provide monetary and nonmonetary awards to schools that meet or exceed API performance growth targets established pursuant to Section 52052, and demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools. For purposes of this section, an ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at a school.

(b) All schools, including schools participating in the Immediate Intervention/Underperforming Schools Program are eligible to participate in the Governor's Performance Award Program. The manner and form in which the monetary and nonmonetary awards are given shall be established by the Superintendent of Public Instruction and approved by the State Board of Education. The monetary awards shall be made available on either a per pupil or per school basis, not to exceed one hundred fifty dollars ($150) per pupil enrolled and subject to funds appropriated in the annual Budget Act. A school that continues to show improvement in successive years is eligible to receive annual bonuses.

(c) In addition to or in substitution of monetary awards, the Superintendent of Public Instruction may establish, upon approval by the State Board of Education, nonmonetary awards that may include, but are not limited to, classification as a distinguished school, listing on a published public school honor roll, and public commendations by the Governor and the Legislature.

(d) A * * * governing board of a school district or a county board of education with one or more schools under its jurisdiction that are eligible to receive an award from the Governor's Performance Award Program may request on behalf of those schools that the State Board of Education * * * waive * * * all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 * * *. The board may grant the request if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300. The waiver shall be granted for no more than three consecutive fiscal years. A governing board of a school district or a county board of education may request a renewal for schools under their jurisdiction that still meet the eligibility criteria.

(e) * * * The waiver granted pursuant to subdivision (d) of Section 52057 may also provide the governing board of a school district or a county board of education with maximum flexibility, on the part of eligible schools within the districts, in the expenditure of any new or existing categorical funds not otherwise prohibited under state or federal law to enable the school to continue improvement in pupil performance.

SEC. 8.5. Section 52057 of the Education Code is amended to read:

52057. (a) The State Board of Education shall establish a Governor's Performance Award Program to provide monetary and nonmonetary awards to schools that meet or exceed API performance growth targets established pursuant to Section 52052, and demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools. For purposes of this section, an ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at school.

(b) All schools, including schools participating in the Immediate Intervention/Underperforming Schools Program are eligible to participate in the Governor's Performance Award Program. The manner and form in which the monetary and nonmonetary awards are given shall be established by the Superintendent of Public Instruction and approved by the State Board of Education. The monetary awards shall be made available on either a per pupil or per school basis, not to exceed one hundred fifty dollars ($150) per pupil enrolled and subject to funds appropriated in the annual Budget Act. A school that continues to show improvement in successive years is eligible to receive annual bonuses.

(c) In addition to or in substitution of monetary awards, the Superintendent of Public Instruction may establish, upon approval by the State Board of Education, nonmonetary awards that may include, but are not limited to, classification as a distinguished school, listing on a published public school honor roll, and public commendations by the Governor and the Legislature.

(d) A * * * governing board of a school district or a county board of education with one or more schools under its jurisdiction that are eligible to receive an award from the Governor's Performance Award Program may request on behalf of those schools that the State Board of Education * * * waive * * * all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000, and the board may grant the request if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300. The waiver shall be granted for no more than three consecutive fiscal years. A governing board of a school district or a county board of education may request a renewal for schools under their jurisdiction that still meet the eligibility criteria.

(e) * * * The waiver granted pursuant to subdivision (d) of Section 52057 may also provide the governing board of a school district or a county board of education with maximum flexibility, on the part of eligible schools within the districts, in the expenditure of any new or existing categorical funds not otherwise prohibited under state or federal law to enable the school to continue improvement in pupil performance.

SEC. 9. Section 52058 of the Education Code is amended to read:

52058. (a) * * * Each school district with schools participating in the Immediate Intervention/Underperforming Schools Program established pursuant to Section 52053 shall submit to the Superintendent of Public Instruction an evaluation of the impact, costs, and benefits of the program as it relates to the school district and the schools under its jurisdiction that are participating in the program and whether or not the schools met their growth targets, with an analysis of the reasons why the schools have or have not met those growth targets. Costs to develop and submit the evaluation shall be funded with resources provided pursuant to Article 3 (commencing with Section 52053). The evaluation shall be submitted by November 30, subsequent to the first full year of action plan implementation by participating schools, and on November 30, of each year thereafter.

(b) By January 15, 2000, the Superintendent of Public Instruction shall develop, and the State Board of Education shall approve, the guidelines for a request for proposal for an independent evaluator as described in this subdivision. By September 1, 2000, the Superintendent of Public Instruction shall contract with an independent evaluator to prepare a comprehensive evaluation of the implementation, impact, costs, and benefits of the Immediate Intervention/Underperforming Schools Program and the High Achieving/Improving Schools Program. The preliminary results of the evaluation shall be disseminated to the Legislature, the Governor, and interested parties no later than March 31, 2002, with a final report no later than June 30, 2002. The final report shall include recommendations for necessary or desirable modifications to the programs established pursuant to this chapter.

(c) The evaluations shall consider all of the following:

(1) Pupil performance data, including, but not limited to, results of assessments used to determine whether or not schools have made significant progress towards meeting their growth targets.

(2) Program implementation data, including, but not limited to, a review of startup activities, community support, parental participation, staff development activities associated with implementation of the program, percentage of fully credentialed teachers, percentage of teachers who hold emergency credentials, percentage of teachers assigned outside their subject area of competence, the accreditation status of the school if appropriate, average class size per grade level, and the number of pupils in a multitrack year-round educational program.

(3)(A) Pupil performance data, and its impact on the API, for each of the following subgroups:

(i) English language learners.

(ii) Pupils with exceptional needs.

(iii) Pupils that qualify for free or reduced price meals and are enrolled in schools that receive funds under Chapter 1 of the federal Elementary and Secondary Education Act of 1965, as amended by the Augustus F. Hawkins–Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (P.L. 100–290).

(B) Information concerning individual pupils may not be disclosed in the process of preparing pupil performance data pursuant to this subdivision.

(d) The Superintendent of Public Instruction shall recommend and the State Board of Education shall approve a schedule for biennial evaluations of the programs established pursuant to this chapter, subsequent to the evaluation required by this section. The biennial evaluations shall be submitted, with appropriate recommendations, by June 30 of every odd-numbered year, commencing with the year 2003.

SEC. 10. Section 2 of Chapter 3 of the Statutes of 1999, of the First Extraordinary Session, is amended to read:

Sec. 2. (a) The sum of one hundred ninety-three million two hundred thousand dollars ($193,200,000) is hereby appropriated according to the following schedule:

(1) Sixty-three million seven hundred four thousand dollars ($63,704,000) from the General Fund to the Superintendent of Public Instruction for allocation to school districts for purposes of providing funding for planning and grants for implementing the Immediate Intervention/Underperforming Schools Program as set forth in Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28 of the Education Code.

(2) Thirty-two million four hundred forty-six thousand dollars ($32,446,000) from the Federal Trust Fund to the Superintendent of Public Instruction for allocation to school districts for purposes of providing funding for planning and grants for implementing the Immediate Intervention/Underperforming Schools Program as set forth in Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28 of the Education Code.

(3) Ninety-six million one hundred fifty thousand dollars ($96,150,000) from the General Fund to the Superintendent of Public Instruction for allocation to school districts that meet or exceed performance growth targets established by the board pursuant to the High Achieving/Improving Schools Program as set forth in Article 4 (commencing with Section 52056) of Chapter 6.1 of Part 28 of the Education Code. Funds appropriated pursuant to this paragraph that have not been allocated by June 30, 2000, shall be available for allocation and expenditure for purposes of this paragraph in the 2000–01 fiscal year.

(4) Nine hundred thousand dollars ($900,000) from the General Fund to the Superintendent of Public Instruction to provide support services related to programs established by the Public Schools Accountability Act of 1999 pursuant to Chapter 6.1 (commencing with Section 52050) of Part 28 of the Education Code.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraphs (1) and (3) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1999–2000 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1999–2000 fiscal year.

SEC. 11. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 12. Section 8.5 of this bill incorporates amendments to Section 52057 of the Education Code proposed by both this bill and SB 961. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 52057 of the Education Code, and (3) this bill is enacted after SB 961, in which case Section 52057 of the Education Code, as amended by Section 6 of this bill, shall remain operative only until January 1, 2001, at which time Section 8.5 of this bill shall become operative.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the provisions of the Public Schools Accountability Act of 1999, and to provide clarification, it is necessary that this bill take effect immediately.

SCHOOLS AND SCHOOL DISTRICTS—PUBLIC SCHOOL PERFORMANCE ACCOUNTABILITY PROGRAM—ACTION PLAN

CHAPTER 190

A.B. No. 2162

AN ACT to amend Section 52054 of the Education Code, relating to school accountability.

[Filed with Secretary of State July 24, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2162, Mazzoni. School accountability: school action plan.

Existing law establishes the Public School Performance Accountability Program that consists of an Academic Performance Index (API), an Immediate Intervention/Underperforming Schools Program, and a Governor's High Achieving/Improving Schools Program. A school selected to participate in the Immediate Intervention/Underperforming Schools Program is required to comply with certain requirements by prescribed dates within the year in which the school is selected to participate, including, but not limited to, completing an action plan to improve the academic achievement of the pupils enrolled at the school.

This bill would change the dates by which the requirements are to be met. The bill would provide that the school action plan may propose to increase the number of instructional days and may propose to increase up to a full 12 months the amount of time for which certificated employees are contracted if prescribed conditions are met.

The people of the State of California do enact as follows:

SECTION 1. Section 52054 of the Education Code is amended to read:

52054. (a) By * * * November 15 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program shall contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

(b) By December 15 of the year that the school is selected to participate, the selected external evaluator shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator shall do all of the following:

(1) Inform the parents and legal guardians, in writing, that the school has been selected to participate in the Immediate Intervention/Underperforming Schools Program due to its below-average performance.

(2) Hold a public meeting at the school, in cooperation with the principal, to which all parents and legal guardians of pupils in the school receive a written invitation. The invitation to the meeting may be combined with the written notice required by paragraph (1).

(3) Solicit, at the public meeting, the recommendations and opinions of the participating parents and legal guardians of pupils in the school regarding actions that should be taken to improve the performance of the school. These opinions and recommendations shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section.

(4) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By January 15 of the year that the school is selected to participate, the selected external evaluator shall complete a review of the school that identifies weaknesses that contribute to the school's below average performance and makes recommendations for improvement.

(d) By April 15 of the year that follows the year the school is selected to participate, the external evaluator and the schoolsite and community team selected pursuant to subdivision (a) shall develop an action plan to improve the academic achievement of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the State Board of Education pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a scope that requires reimbursement by the Commission on State Mandates for its implementation.

(e) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

(2) Identify the current barriers at the school and district toward improvements in pupil achievement.

(3) Identify schoolwide and districtwide strategies to remove these barriers.

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding the achievement of English learners, economically disadvantaged pupils, and other groups of pupils, by race, ethnicity, and gender.

(6) Set short-term academic objectives pursuant to Section 52052 for a two-year period that will allow the school to make adequate progress toward the growth targets established for each participating school for pupil achievement as measured by all of the following to the extent that the data is available for the school:

(A) The achievement test administered pursuant to Section 60640.

(B) Graduation rates for grades 7 to 12, inclusive.

(C) Attendance rates for pupils and school personnel for elementary, middle, and secondary schools.

(D) Any other indicators approved by the State Board of Education.

(f) The school action plan shall focus on improving pupil academic performance, improving the involvement of parents and guardians, improving the effective and efficient allocation of resources and management of the school, and identifying and developing solutions that take into account the underlying causes for low performance by pupils.

* * *

(g) The school action plan may propose to increase the number of instructional days offered at the schoolsite and also may propose to increase up to a full 12 months the amount of time for which certificated employees are contracted, if all of the following conditions are met:

(1) Provisions of the plan proposed pursuant to this subdivision shall not violate current applicable collective bargaining agreements.

(2) An agreement is reached with the exclusive representative concerning staffing specifically to accommodate the extended school year or 12-month contract.

(h) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(i) Upon its completion, the action plan shall be submitted to the governing board of the school districts for its approval. After the plan is approved, but no later than May 15 of the year that follows the year the school is selected to participate, the plan shall be submitted to the Superintendent of Public Instruction with a request for funding in the form prescribed by the Superintendent of Public Instruction.

(j) Not later than June 15 of the year next following the year in which a school is selected for participation, the State Board of Education shall review and approve or disapprove the school's request for funding, based on the recommendation of the Superintendent of Public Instruction. In conjunction with its approval of a request for funding to implement a school's action plan, the State Board of Education may waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300.

SCHOOLS AND SCHOOL DISTRICTS—ENGLISH LANGUAGE AND INTENSIVE LITERACY PROGRAM—KINDERGARTEN TO GRADE TWELVE

CHAPTER 71

S.B. No. 1667

AN ACT to amend Sections 313, 2550, 8278, 10551, 10554, 10555, 32228, 32228.1, 33050, 41203.1, 47652, 48664, 49550.3, 54743, 54744, 54745, 54746, 54747, 54748, 54749, 54749.5, 76300, 87885, and 92820 of, to add Sections 2568, 42238.23, and 52052.3 to, to add and repeal Chapter 5 (commencing with Section 420) of Part 1 of, and to add Chapter 4 (commencing with Section 14550) to Part 9 of, the Education Code, to amend Section 6516.6 of, to add Chapter 3.10 (commencing with Section 15820.80) to Part 10b of Division 3 of Title 2 of, and to add and repeal Section 15820.84 of, the

SEC. 17. Section 49550.3 of the Education Code is amended to read:

49550.3. (a) * * * Because a hungry child cannot learn, the Legislature intends, as a state nutrition and health policy, that the School Breakfast Program be made available in all schools where it is needed to provide adequate nutrition for children in attendance.

(b) The State Department of Education shall, in cooperation with school districts and county superintendents of schools, provide information and limited financial assistance to encourage program startup and expansion into all qualified schools, as follows:

(1) Provide information to school districts and county superintendents of schools concerning the benefits and availability of the School Breakfast Program.

(2) Each year, provide additional information and financial assistance to schools in the state, selected on the following criteria:

(A) Twenty percent or more of the school enrollment consists of children who have applied and qualify for free and reduced-price meals.

* * *

(B) The school has not been awarded federal startup funds to initiate a school breakfast program or a summer food service program.

(c) The department shall award grants of up to fifteen thousand dollars ($15,000) per schoolsite on a competitive basis to school districts, county superintendents of schools, or entities approved by the State Department of Education, * * * limited to an amount subject to budget appropriations each fiscal year * * * , for nonrecurring expenses incurred in initiating or expanding a school breakfast program under this section or a summer food service program pursuant to Article 10.7 (commencing with Section 49547).

(d) Grants awarded under this section shall be used for nonrecurring costs of initiating or expanding a school breakfast program * * * or a summer food service program, including the acquisition of equipment, training of staff in new capacities, outreach efforts to publicize new or expanded school breakfast programs or summer food service programs,* * * minor alterations to accommodate new equipment, computer point-of-service systems for food service, and the purchase of vehicles for transporting food to schools. Funds may not be used for salaries and benefits of staff, food, computers, except computer point-of-service systems, or capital outlay * * * .

(e) In making grant awards under this section in any fiscal year, the department shall give a preference to school districts and county superintendents of schools that do all of the following:

(1) Submit to the department a plan to start or expand school breakfast programs or summer food service programs in the district or the county, including a description of the following:

(A) The manner in which the district or county will provide technical assistance and funding to schoolsites to expand those programs.

(B) Detailed information on the nonrecurring expenses needed to initiate a program.

(C) Public or private resources that have been assembled to carry out expansion of these programs during that year.

(2) Agree to operate the breakfast program or the summer food service program for a period of not less than three years.

(3) Assure that the expenditure of funds from state and local resources for the maintenance of the breakfast program or the summer food service program shall not be diminished as a result of grant awards received under this section.

SEC. 18. Section 52052.3 is added to the Education Code, to read:

52052.3. Test scores of pupils who are in the first year of enrollment in a high school, but who, in the prior year, were enrolled in an elementary school district that normally matriculates to the high school district, shall be included in the Academic Performance Index, as provided in Section 52052.

SEC. 19. Section 54743 of the Education Code is amended to read:

54743. For the purposes of this chapter, the following definitions shall apply:

(4) One million five hundred thousand dollars ($1,500,000) for allocation on a one-time basis to Copper Mountain Community College for transition and technology costs.

(5) Nine hundred thousand dollars ($900,000) for allocation on a one-time basis to the San Francisco City College, Mission Center, for the working drawings phase of the Mission Center capital outlay project which has previously been approved by the state.

(6) Fifty thousand dollars ($50,000) for allocation on a one-time basis to the San Diego Community College district for the Faces of San Diego Project.

(7) Four million dollars ($4,000,000) for allocation on a one-time basis to the Los Angeles City College for site acquisition and development of the Atwater Village Satellite Center.

(b) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to community colleges," as defined in subdivision (c) of Section 41202 of the Education Code for the 1999–2000 fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1999–2000 fiscal year.

SEC. 44. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the Budget Act of 2000 with respect to the public schools and higher education, it is necessary that this act take effect immediately.

SCHOOLS AND SCHOOL DISTRICTS—TEACHERS AND SCHOOL EMPLOYEES—PERFORMANCE BONUSES

CHAPTER 52

A.B. No. 1114

AN ACT to add Article 10.6 (commencing with Section 44650) of Chapter 3 of Part 25 of the Education Code, relating to certificated school employees, and declaring the urgency thereof, to take effect immediately.

[Filed with Secretary of State July 1, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1114, Steinberg. Certificated Staff Performance Incentive Act.

Existing law, the National Board for Professional Teaching Standards Certification Incentive Program, awards grants to school districts for the purpose of providing one-time $10,000 merit awards to teachers who are employed by school districts or charter schools, are assigned to teach in California public schools, and have attained certification from the National Board for Professional Teaching Standards. Existing law establishes the Public School Performance Accountability Program that consists in part of a state Academic Performance Index, known as the API.

This bill would establish the Certificated Staff Performance Incentive Act for the purpose of awarding one-time performance bonuses to certificated teachers and other certificated school employees in eligible underachieving schools where the academic performance of pupils significantly improves beyond a minimum percentage growth target. The bill would require the State Board of Education to establish criteria for determining the eligibility of schools to receive the awards and to determine the amount to be allocated to a school based on the number of teachers and other certificated staff eligible to receive an award, not to exceed $25,000 per full-time equivalent certificated staff.

The bill would provide the award program would only be implemented if funds are appropriated for these purposes in the annual Budget Act. The bill would require the Superintendent of Public Instruction to allocate funds to school districts and charter schools that have certified that they satisfy certain eligibility requirements, and to notify the exclusive representative of the teachers and other certificated staff in each district of the availability of the funds. The bill would require the governing board of the school district, upon receiving an allocation for the purpose of making awards, to negotiate individual teacher and other certificated staff salary award amounts with the exclusive representative of the teachers and other certificated staff. The bill would provide for the amount of awards in the event that an agreement is not reached between the governing board of the school district and the exclusive representative of the teachers and other certificated staff.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Article 10.6 (commencing with Section 44650) is added to Chapter 3 of Part 5 of the Education Code, to read:

Article 10.6. Certificated Staff Performance Awards for Improved Student Achievement In Underachieving Schools

44650. (a) The Certificated Staff Performance Incentive Act is hereby established for the purpose of awarding one-time performance awards to teachers and other certificated staff in underachieving schools, where the academic performance of pupils significantly improves beyond the minimum percentage growth target established pursuant to Section 52052.

(b) The State Board of Education shall establish criteria for determining the eligibility of schools to receive the awards and shall determine the amount to be allocated to a school, based on the number of teachers and other certificated staff eligible to receive an award. The maximum award allocated to a school per full-time equivalent certificated staff shall not exceed twenty-five thousand dollars ($25,000). The total amount of the awards allocated under this article shall not exceed the total amount appropriated for the purposes of this article.

(c) This article shall be implemented subject to the appropriation of funds for the purpose of this article in the annual Budget Act.

44651. (a) Any school district or charter school that maintains classes in kindergarten or any of grades 1 to 12, inclusive, may apply for funding under this article if it meets the conditions of subdivision (b). County boards of education, county superintendents of schools, and state agencies shall not be eligible to participate.

(b) To be eligible for funding under this article, a school shall meet all of the following conditions:

(1) The school's aggregate score for student performance on the state Academic Performance Index established pursuant to Section 52052 was below the 50th percentile relative to other public schools in the state in the prior year.

(2) The school has met the criteria established by the board pursuant to subdivision (b) of Section 44650.

44652. The Superintendent of Public Instruction shall allocate funds to school districts and charter schools that have certified to the superintendent that they satisfy the conditions of subdivision (b) of Section 44651, based on the amount determined pursuant to subdivision (b) of Section 44650. At the time of the allocation the Superintendent of Public Instruction shall notify the exclusive representatives of the teachers and other certificated staff in each district of the availability of these funds.

44653. Upon receiving an allocation from the Superintendent of Public Instruction for the purpose of awarding awards, the governing board of the school district shall negotiate individual teacher and other certificated staff salary award amounts with the exclusive representative of the bargaining unit of the teachers and other certificated staff. In the event that the governing board and the exclusive representative of teachers and other certificated staff do not reach an agreement regarding the amount of the award or if the teachers and other certificated staff are not represented by an exclusive bargaining representative, all teachers and other certificated staff at the school shall receive a salary award amount that is equal to a percentage of their base salary that is determined by dividing the total amount awarded to a school by the sum of the annual base salaries for teachers and other certificated staff of the school.

44654. (a) Funds awarded pursuant to this article shall not become part of a district's revenue limit, and shall be identified as a separate item of expenditure on any financial reports filed by school districts with the state pursuant to any state law or regulation.

(b) Salary award amounts received by teachers and other certificated staff pursuant to this article shall not be considered compensation for the purposes of calculating retirement benefits or contributions, or for any other benefit that an employee is eligible to receive where the benefit or contribution amount is calculated based on compensation.

(c) It is the intent of the Legislature that funds appropriated for the purposes of this article shall be fully expended based on the criteria established in subdivision (b) of Section

44650. However, if unexpended funds are available, they shall continue to be available for allocation for the intended purpose of the appropriation in subsequent years.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the statutory changes to implement the Budget Act of 1999 as soon as possible, it is necessary that the act take effect immediately.

SCHOOLS AND SCHOOL DISTRICTS—PUBLIC SCHOOL PERFORMANCE ACCOUNTABILITY PROGRAM—ACADEMIC PERFORMANCE INDEX

CHAPTER 3

S.B. No. 1

AN ACT to add Chapter 6.1 (commencing with Section 52050) to Part 28 of the Education Code, relating to school performance, and making an appropriation therefor.

[Filed with Secretary of State April 5, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1, Alpert. Education accountability.

Existing law requires each school district, charter school, and county office of education to administer to each of its pupils in grades 2 to 11, inclusive, an achievement test designated by the State Board of Education as part of the Standardized Testing and Reporting program.

This bill would establish the Public School Performance Accountability Program that would consist of an Academic Performance Index, an Immediate Intervention/Underperforming Schools Program, and a Governor's High Achieving/Improving Schools Program.

This bill would require the Superintendent of Public Instruction, with approval of the State Board of Education, to develop the Academic Performance Index (API), consisting of a variety of indicators, to be used to measure performance of schools. The bill would require the Superintendent of Public Instruction to develop, and the State Board of Education to adopt, expected annual percentage growth targets for all schools based on their API baseline score and would prescribe a minimum percentage growth target of 5% annually. Upon

adoption of state performance standards by the State Board of Education, the Superintendent of Public Instruction would be required to recommend, and the State Board of Education would be required to adopt, a statewide API performance target. The bill would also require the Superintendent of Public Instruction to establish an advisory committee to advise the Superintendent of Public Instruction and the State Board of Education on matters relative to the programs established by the bill.

This bill would require the Superintendent of Public Instruction, with the approval of the State Board of Education, to invite schools that scored below the 50th percentile on the Standardized Testing and Reporting program achievement tests to participate in the Immediate Intervention/Underperforming Schools Program that would be limited to 430 schools with a maximum number of schools in each of 3 grade level categories. This bill would impose a state-mandated local program by providing that if fewer than the number of schools in any grade level category apply, schools that scored below the 50th percentile in those grades may be randomly selected to participate in this program. A school selected to participate would be awarded a planning grant of $50,000.

This bill would require the Superintendent of Public Instruction to develop, and the State Board of Education to approve, minimum qualifications for external evaluators and, with the approval of the State Board of Education, to develop and disseminate an application process by which to establish a list of external evaluators.

This bill would require the governing board of a school district having jurisdiction over a school selected for participation in the Immediate Intervention/Underperforming Schools Program to contract with an external evaluator and to appoint a broad-based schoolsite and community team. The bill would require the external evaluator to complete a review of the school that identifies weaknesses that contribute to the school's below-average performance and makes recommendations for improvement. The external evaluator and a broad-based schoolsite would be required to develop an action plan with prescribed components to improve the academic achievement of the pupils enrolled at the school. The bill would require the plan to be submitted to the governing board of the school districts for its approval and after the plan is approved to be submitted to the Superintendent of Public Instruction with a request for funding. The bill would require the State Board of Education to review and approve or disapprove the school's request for funding, based on the recommendation of the Superintendent of Public Instruction, and would authorize the board to waive all or any part of any provision of the Education Code, or any board adopted regulation, controlling categorical education programs if certain conditions are met.

This bill would require a school whose application is approved to receive funding in each fiscal year that it participates in the program in an amount up to $200 per pupil enrolled in the school, with a minimum allocation of $50,000 per schoolsite. The bill would require the participating school or the school district having jurisdiction over that school to match the state funding and would require them to redirect for purposes of their academic improvement plan their new or existing categorical education funding. To the extent this requirement results in the expenditure of categorical education funding for purposes other than those for which it was appropriated, the bill would reappropriate those funds.

This bill would require the governing board of a school that fails to meet its annual short-term growth target within 12 months following receipt of funding to hold a public hearing at a regularly scheduled meeting to ensure that members of the school community are aware of the lack of progress and to choose from a range of interventions for the school to continue implementing the action plan and progressing toward meeting the school's growth targets.

This bill would require a school that meets or exceeds its growth target within 24 months after receipt of funding to receive an award under the Governor's Performance Award program. The bill would require a school that has not met its performance goals, but demonstrates significant growth within this period to continue to participate in the program for an additional year and to receive funding. The bill would deem a school that does not meet its performance goals within 24 months after receipt of funding and has failed to show significant growth a low-performing school.

This bill would require the Superintendent of Public Instruction to assume all the legal rights, duties, and powers of the governing board with respect to a low-performing school. The bill would require the Superintendent of Public Instruction, in consultation with the State

Board of Education and the governing board of the school district, to reassign the principal of that school and to take other enumerated actions.

This bill would require, under the High Achieving/Improving Schools Program, the Superintendent of Public Instruction to rank all public schools based on the API in decile categories by grade level of instruction provided. The bill would require that the rankings indicate the target annual growth rates, the actual growth rates attained by the schools, and how growth rates compare schools that have similar characteristics. The bill would require the Superintendent of Public Instruction to annually publish these rankings on the Internet.

This bill would require the governing board of each school district to discuss the results of the annual ranking at a regularly scheduled meeting, thereby imposing a state-mandated local program.

This bill would authorize a school that is eligible to participate in the Governor's Performance Award Program to request the State Board of Education to waive all, or any part of, any provision of the Education Code, or any board adopted regulation, controlling categorical education programs and would authorize the board to grant the request if certain conditions are met. The bill would also require that a school that demonstrates significant growth be granted maximum flexibility in its expenditure of new and existing categorical funds to enable the school to continue improvement in pupil performance.

This bill would provide that a school that fails to meet the established annual state growth targets may be subject to the Immediate Intervention/Underperforming Schools Program.

This bill would require the State Board of Education to establish a Governor's Performance Award program to provide monetary and nonmonetary awards to schools that meet or exceed API performance growth targets and would make all schools, including schools participating in the Immediate Intervention/Underperforming Schools Program eligible to participate in the Governor's Performance Award program.

This bill would appropriate $193,200,000 to the Superintendent of Public Instruction for the purposes of its provisions, of which$160,754,000 would be appropriated from the General Fund and$32,446,000 would be appropriated from the Federal Trust Fund. The funds appropriated from the General Fund by this bill for allocation to school districts would be applied toward the minimum funding requirements for school districts and community college districts imposed by Section 8 of Article XVI of the California Constitution.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Chapter 6.1 (commencing with Section 52050) is added to Part 28 of the Education Code, to read:

CHAPTER 6.1. PUBLIC SCHOOLS ACCOUNTABILITY ACT OF 1999

Article 1. Legislative Findings and Intent

52050. This chapter shall be known and may be cited as the Public Schools Accountability Act of 1999.

52050.5. The Legislature finds and declares all of the following:

(a) The purpose of the California public school system is to provide for the academic development of each pupil and prepare each pupil, to the extent of his or her ability, to

become a lifelong learner, equipped to live and succeed within the economic and societal complexities of the 21st century.

(b) It is in the interest of the people and the future of this state to ensure that each child in California receives a high quality education consistent with all statewide content and performance standards, as adopted by the State Board of Education, and with a meaningful assessment system and reporting program requirements.

(c) Recent assessments indicate that many pupils in California are not now, generally, progressing at a satisfactory rate to achieve a high quality education.

(d) To remedy this, the state is in need of an immediate and comprehensive accountability system to hold each of the state's public schools accountable for the academic progress and achievement of its pupils within the resources available to schools.

(e) Any promising and effective accountability system must be based upon a constructive and collaborative process that seeks to include stakeholders in the accountability process.

(f) Any promising and effective accountability system requires the active involvement of parents and guardians, pupils, educators, community leaders, school boards, and schoolsite teams.

(g) The statewide school accountability system must encourage the active participation of parents and guardians, pupils, educators, and the local community in improving pupil achievement.

(h) The statewide accountability system must be easily accessible and understandable to parents and others.

(i) The statewide accountability system must include rewards that recognize high achieving schools as well as interventions and, ultimately, sanctions for schools that are continuously low performing.

(j) It is also the intent of the Legislature that the comprehensive and effective school accountability system primarily focus on increasing academic achievement.

(k) To achieve better pupil performance, it is the intent of the Legislature that any school accountability system do all of the following:

(1) Encourage teacher preparation that allows teachers to develop the ability to inspire pupils to become lifelong learners.

(2) Encourage teacher preparation and consistent ongoing professional development that serves to develop competency in content and pedagogy and that allows teachers to effectively involve themselves in promoting school accountability.

(3) Encourage the involvement of the community and its stakeholders in the accountability system.

(4) Encourage local community involvement in providing support for education and identifying causes of pupil failure and designing programs for remediation.

(5) Approach accountability with an attitude of collaboration, encouragement, and correction.

(6) Utilize the state infrastructure to support schools, school districts, and county offices of education in their efforts to improve pupil achievement and progress.

(7) Encourage each local community to support and sustain high-quality educational programs and to build the capacity of educators and schools to succeed in educating every pupil.

(8) Encourage active involvement of parents and guardians in the development and implementation of school accountability systems.

Article 2. Public School Performance Accountability Program

52051. The Public School Performance Accountability Program is hereby established and shall consist of the following three component parts:

(a) The state Academic Performance Index, to be known as the API.

(b) The Immediate Intervention/Underperforming Schools Program.

(c) The Governor's High Achieving/Improving Schools Program.

52051.5. For purposes of this chapter, all references to schools shall include charter schools.

52052. (a) By July 1, 1999, the Superintendent of Public Instruction, with approval of the State Board of Education, shall develop an Academic Performance Index, to be used to measure performance of schools, especially the academic performance of pupils, and demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools. A numerically significant ethnic or socioeconomically disadvantaged subgroup is a subgroup that constitutes at least 15 percent of a school's total pupil population and consists of at least 30 pupils. The index shall consist of a variety of indicators currently reported to the State Department of Education including, but not limited to, the results of the achievement test administered pursuant to Section 60640, attendance rates for pupils and certificated school personnel for elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools. The pupil data collected for the API that comes from the achievement test administered pursuant to Sections 60640 and 60644 and the high school exit examination, when fully implemented, shall be disaggregated by special education status, English language learners, socioeconomic status, gender and ethnic group. Only the test scores of pupils enrolled in a school district for one year or more may be included in the test results reported in the API. Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index. Before including high school graduation rates and attendance rates in the index, the Superintendent of Public Instruction shall determine the extent to which the data is currently reported to the state and the accuracy of the data. If the Superintendent of Public Instruction determines that accurate data for these indicators is not available, the Superintendent of Public Instruction shall report to the Governor and the Legislature by September 1, 1999, and recommend necessary action to implement an accurate reporting system.

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The assessment of the applied academic skills matrix test development pursuant to Section 60604.

(2) The nationally normed test as augmented pursuant to paragraph (1) of subdivision (f) of Section 60644.

(3) The high school exit examination.

(c) Based on the API, the Superintendent of Public Instruction shall develop, and the State Board of Education shall adopt, expected annual percentage growth targets for all schools based on the their API baseline score as measured in July 1999. Schools are expected to meet these growth targets through effective allocation of available resources. The minimum percentage growth target shall be 5 percent annually. However, the State Board of Education may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement.

(d) Upon adoption of state performance standards by the State Board of Education, the Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target. When fully developed, schools may either meet the state target or meet their growth targets to be eligible for the Governor's Performance Award Program as set forth in Section 52057.

(e) Beginning in June 2000, the API shall be used for both of the following:

(1) Measure the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Rank all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

(f) Only comprehensive high schools, middle schools, and elementary schools that have a population of 100 or more pupils may be included in the API ranking.

(g) By July 1, 2000, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall develop an alternative accountability system for schools with fewer than 100 pupils, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools.

52052.5. The Superintendent of Public Instruction shall establish a broadly representative and diverse advisory committee to advise the Superintendent of Public Instruction and the State Board of Education on all appropriate matters relative to the creation of the Academic Performance Index and the implementation of the Immediate Intervention/Underperforming Schools Program and the High Achieving/Improving Schools Program. Members of the advisory committee shall serve without compensation for terms not to exceed two years. The State Department of Education shall provide staff to the advisory panel.

Article 3. Immediate Intervention/Underperforming Schools Program

52053. (a) The Immediate Intervention/Underperforming Schools Program is hereby established. By August 15, 1999, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall invite schools that scored below the 50th percentile on the achievement tests administered pursuant to Section 60640 both in the spring of 1998 and in the spring of 1999 to participate in the Immediate Intervention/Underperforming Schools Program. A school invited to participate may take any action not otherwise prohibited under state or federal law and that would not require reimbursement by the Commission on State Mandates to improve pupil performance.

(b) The total number of schools participating in the program shall be 430. Unless subdivision (d) applies, schools that apply will be selected based on the order in which they apply within ranks of deciles, not to exceed 86 per decile, within the following grade level categories:

(1) No more than 301 elementary schools.

(2) No more than 78 middle schools.

(3) No more than 52 high schools.

(c) The 86 schools selected within each decile range pursuant to subdivision (b) shall proportionately represent elementary, middle, and high schools and shall provide statewide proportionate geographic representation of urban and rural schools.

(d) If fewer than the number of schools in any grade level category apply, schools that scored below the 50th percentile in those grade level categories that did not apply for the program shall randomly be selected by the Superintendent of Public Instruction, with the approval of the State Board of Education, to participate based on their proportional representation in the state until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(e) If more than the requisite number of schools apply for any grade level category, the Superintendent of Public Instruction shall select an array of schools that reflect a broad range of academic performance of schools that scored below the 50th percentile, until the number of schools in each grade level category set forth in subdivision (b) is achieved.

(f) A school selected to participate on or before September 1, 1999, shall be awarded a planning grant from funds appropriated pursuant to paragraph (1) of subdivision (a) of Section 2 of the act adding this section in the amount of fifty thousand dollars ($50,000). A school selected to receive federal funds pursuant to paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall be awarded an implementation grant in an amount of at least fifty thousand dollars ($50,000) pursuant to Public Law 105–78.

(g) Schools receiving funding under paragraph (2) of subdivision (a) of Section 2 of the act adding this section shall comply with Public Law 105–78.

(h) Schools selected for participation in the program shall be notified by the Superintendent of Public Instruction no later than September 1 of each year.

52053.5. (a) The Superintendent of Public Instruction shall develop, and the State Board of Education shall approve, the minimum qualifications for external evaluators that shall include, but may not be limited to, recent successful professional, managerial or governing board experience in improving school achievement, and the ability to assist the school to systematically align curriculum, instruction, and assessment. The external evaluators shall also have demonstrated experience in working with diverse populations. With the approval of the State Board of Education, the Superintendent of Public Instruction shall develop and disseminate an application process by which to establish a list of external evaluators that meet the minimum qualifications. The list of approved external evaluators may include private sector experts, institutions of higher education, county offices of education, and educational consortia.

(b) The Superintendent of Public Instruction shall develop, and the State Board of Education shall approve, the standards and criteria to be applied by external evaluators in carrying out their duties. The standards and criteria shall include, but are not limited to, the following areas:

(1) Governing board policies.

(2) Curriculum management.

(3) Fiscal management.

(4) Parental and community involvement.

(5) Personnel management.

(6) Facilities management.

52054. (a) By October 1 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program shall contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

(b) By November 15 of the year that the school is selected to participate, the selected external evaluator shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator shall do all of the following:

(1) Inform the parents and legal guardians, in writing, that the school has been selected to participate in the Immediate Intervention/Underperforming Schools Program due to its below-average performance.

(2) Hold a public meeting at the school, in cooperation with the principal, to which all parents and legal guardians of pupils in the school receive a written invitation. The invitation to the meeting may be combined with the written notice required by paragraph (1).

(3) Solicit, at the public meeting, the recommendations and opinions of the participating parents and legal guardians of pupils in the school regarding actions that should be taken to improve the performance of the school. These opinions and recommendations shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section.

(4) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By December 15 of the year that the school is selected to participate, the selected external evaluator shall complete a review of the school that identifies weaknesses that

contribute to the school's below average performance and makes recommendations for improvement.

(d) By March 15 of the year that follows the year the school is selected to participate, the external evaluator and the schoolsite and community team selected pursuant to subdivision (a) shall develop an action plan to improve the academic achievement of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the State Board of Education pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a scope that requires reimbursement by the Commission on State Mandates for its implementation.

(e) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

(2) Identify the current barriers at the school and district toward improvements in pupil achievement.

(3) Identify schoolwide and districtwide strategies to remove these barriers.

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding the achievement of English learners, economically disadvantaged pupils, and other groups of pupils, by race, ethnicity, and gender.

(6) Set short-term academic objectives pursuant to Section 52052 for a two-year period that will allow the school to make adequate progress toward the growth targets established for each participating school for pupil achievement as measured by all of the following to the extent that the data is available for the school:

(A) The achievement test administered pursuant to Section 60640.

(B) Graduation rates for grades 7 to 12, inclusive.

(C) Attendance rates for pupils and school personnel for elementary, middle, and secondary schools.

(D) Any other indicators approved by the State Board of Education.

(f) The school action plan shall focus on improving pupil academic performance, improving the involvement of parents and guardians, improving the effective and efficient allocation of resources and management of the school, and identifying and developing solutions that take into account the underlying causes for low performance by pupils.

(g) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(h) Upon its completion, the action plan shall be submitted to the governing board of the school districts for its approval. After the plan is approved, but no later than April 15 of the year that follows the year the school is selected to participate, the plan shall be submitted to the Superintendent of Public Instruction with a request for funding in the form prescribed by the Superintendent of Public Instruction.

(i) Not later than May 15 of the year next following the year in which a school is selected for participation, the State Board of Education shall review and approve or disapprove the school's request for funding, based on the recommendation of the Superintendent of Public Instruction. In conjunction with its approval of a request for funding to implement a school's action plan, the State Board of Education may waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 if the waiver does not result in a decrease in the instructional time

otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300.

52054.5. A school whose application is approved on or before June 15 of the year following the year in which a school is selected for funding shall receive a grant for implementing the program, in each fiscal year that it participates in the program, in an amount up to two hundred dollars ($200) per pupil enrolled in the school, with a minimum allocation of fifty thousand dollars ($50,000) per schoolsite. A school that applies after June 15 may receive a grant for implementing the program if funds are appropriated for this purpose in the Budget Act. As a condition of receiving this funding, a participating school or the school district having jurisdiction over that school shall match the amount of state funding from any new or existing sources of funding. To help meet this matching requirement, a participating school and the governing board of the school district having jurisdiction over that school shall receive maximum flexibility in the expenditure of any new or existing categorical funds not otherwise prohibited by state or federal law and shall redirect for the purposes of their academic improvement plan new or existing categorical or general purpose funds.

52055. The governing board of a school that fails to meet its annual short-term growth target within 12 months following receipt of funding pursuant to Section 52054.5 shall hold a public hearing at a regularly scheduled meeting to ensure that members of the school community are aware of the lack of progress. The governing board of the school district shall, upon consultation with the external evaluator and the schoolsite and community team selected pursuant to Section 52054, choose from a range of interventions for the school, including reassignment of school personnel to the extent authorized by law, negotiation of site-specific amendments to collective bargaining agreements, or other changes deemed appropriate, in order to continue implementing the action plan approved pursuant to Section 51054, and to make progress toward meeting the school's growth targets.

52055.5. (a) Following 24 months after receipt of funding pursuant to Section 52054.5, a school that meets or exceeds its growth target each year shall receive a monetary or nonmonetary award, under the Governor's Performance Award Program, as set forth in Section 52057. Funds received from this program shall be used at the school's discretion.

(b) Following 24 months after receipt of funding pursuant to Section 52054.5, a school that has not met its performance goals, but demonstrates significant growth, as determined by the State Board of Education, shall continue to participate in the program for an additional year and to receive funding in the amount specified in Section 52054.5.

(c) A school that does not meet its performance goals within 24 months after receipt of funding pursuant to Section 52054.5 and has failed to show significant growth, as determined by the State Board of Education, shall be deemed a low-performing school. Notwithstanding any other provision of law, the Superintendent of Public Instruction shall assume all the legal rights, duties, and powers of the governing board with respect to that school. The Superintendent of Public Instruction, in consultation with the State Board of Education and the governing board of the school district, shall reassign the principal of that school subject to the findings in subdivision (e). In addition to reassigning the principal, the Superintendent of Public Instruction, in consultation with the State Board of Education, shall, notwithstanding any other provision of law, do at least one of the following:

(1) Revise attendance options for pupils to allow them to attend any public school in which space is available. If additional attendance options are made available, nothing in this option shall be construed to require either the sending or receiving school district to incur additional transportation costs.

(2) Allow parents to apply directly to the State Board of Education for the establishment of a charter school and allow parents to establish the charter school at the existing schoolsite.

(3) Under the supervision of the Superintendent of Public Instruction, assign the management of the school to a college, university, county office of education, or other appropriate educational institution. However, the Superintendent of Public Instruction may not assume the management of the school.

(4) Reassign other certificated employees of the school.

(5) Renegotiate a new collective bargaining agreement at the expiration of the existing collective bargaining agreement.

(6) Reorganize the school.

(7) Close the school.

(d) In addition to the actions listed in subdivision (c), the Superintendent of Public Instruction, in consultation with the State Board of Education, may take any other action considered necessary or desirable against the school district or the school district governing board, including appointment of a new superintendent or suspension of the authority of the governing board with respect to the school or schools identified pursuant to subdivision (c).

(e) Before the Superintendent of Public Instruction may take any action against a principal pursuant to subdivision (c), the Superintendent of Public Instruction or a designee of the superintendent shall hold a public hearing on the matter in the school district and make both of the following findings:

(1) A finding that the principal had the authority to take specific enumerated actions that would have helped the school meet its performance goals.

(2) A finding that the principal failed to take specific enumerated actions pursuant to paragraph (1).

(f) An action taken pursuant to subdivision (c), (d), or (e) shall not increase local costs or require reimbursement by the Commission on State Mandates.

(g) An action taken pursuant to subdivision (c), (d), or (e) shall be accompanied by specific findings by the Superintendent of Public Instruction and the State Board of Education that the action is directly related to the identified causes for continued failure by a school to meet its performance goals.

Article 4. High Achieving/Improving Schools Program

52056. (a) The High Achieving/Improving Schools Program is hereby established. Commencing in June 2000, and every June thereafter, the Superintendent of Public Instruction, with approval of the State Board of Education, shall rank all public schools based on the Academic Performance Index established pursuant to Section 52052. The schools shall be ranked in decile categories by grade level of instruction provided and shall include three categories: elementary, middle, and high school. Commencing in June 2001, the rankings shall indicate the target annual growth rates of schools, the actual growth rates attained by the schools, and how growth rates compare schools that have similar characteristics. For purposes of this section, similar characteristics include, but are not limited to, the following characteristics, insofar as data is available from the State Department of Education's data: pupil mobility, pupil ethnicity, pupil socioeconomic status, percentage of teachers who are fully credentialed, percentage of teachers who hold emergency credentials, percentage of pupils who are English language learners, average class size per grade level, and whether the schools operate multitrack year-round educational programs. The Superintendent of Public Instruction shall annually publish these rankings on the Internet.

(b) Commencing in July 2000, and every July thereafter, all schools shall report their ranking, including a description of the components of the ranking, in their annual school accountability report card pursuant to Sections 33126 and 35256.

(c) Commencing in July 2000, and every July thereafter, the governing board of each school district shall discuss the results of the annual ranking at a regularly scheduled meeting.

52056.5. Commencing with the 2000–01 fiscal year, a school that fails to meet annual state growth targets established pursuant to Section 52052 may, as determined by the Superintendent of Public Instruction with the approval of the State Board of Education, be subject to the Immediate Intervention/Underperforming Schools Program pursuant to subdivisions (e) and (f) of Section 52053, and Sections 52053.5, 52054, 52054.5, 52055, and 52055.5.

52057. (a) The State Board of Education shall establish a Governor's Performance Award Program to provide monetary and nonmonetary awards to schools that meet or exceed API performance growth targets established pursuant to Section 52052, and demonstrate compa-

rable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools.

(b) All schools, including schools participating in the Immediate Intervention/Underperforming Schools Program are eligible to participate in the Governor's Performance Award Program. The manner and form in which the monetary and nonmonetary awards are given shall be established by the Superintendent of Public Instruction and approved by the State Board of Education. The monetary awards shall be made available on either a per pupil or per school basis, not to exceed one hundred fifty dollars ($150) per pupil enrolled and subject to funds appropriated in the annual Budget Act. A school that continues to show improvement in successive years is eligible to receive annual bonuses.

(c) In addition to or in substitution of monetary awards, the Superintendent of Public Instruction may establish, upon approval by the State Board of Education, nonmonetary awards that may include, but are not limited to, classification as a distinguished school, listing on a published public school honor roll, and public commendations by the Governor and the Legislature.

(d) A school that is eligible to participate in the Governor's Performance Award Program may request the State Board of Education to waive, all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000, and the board may grant the request if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300.

(e) A school that demonstrates significant growth shall be granted maximum flexibility in its expenditure of any new or existing categorical funds not otherwise prohibited under state or federal law to enable the school to continue improvement in pupil performance.

52058. (a) By January 31, 2002, each school district with schools participating in the Immediate Intervention/Underperforming Schools Program established pursuant to Section 52053 shall submit to the Superintendent of Public Instruction an evaluation of the impact, costs, and benefits of the program as it relates to the school district and the schools under its jurisdiction that are participating in the program and whether or not the schools met their growth targets, with an analysis of the reasons why the schools have or have not met those growth targets. Costs to develop and submit the evaluation shall be funded with resources provided pursuant to Article 3 (commencing with Section 52053).

(b) By January 15, 2000, the Superintendent of Public Instruction shall develop, and the State Board of Education shall approve, the guidelines for a request for proposal for an independent evaluator as described in this subdivision. By September 1, 2000, the Superintendent of Public Instruction shall contract with an independent evaluator to prepare a comprehensive evaluation of the implementation, impact, costs, and benefits of the Immediate Intervention/Underperforming Schools Program and the High Achieving/Improving Schools Program. The preliminary results of the evaluation shall be disseminated to the Legislature, the Governor, and interested parties no later than March 31, 2002, with a final report no later than June 30, 2002. The final report shall include recommendations for necessary or desirable modifications to the programs established pursuant to this chapter.

(c) The evaluations shall consider all of the following:

(1) Pupil performance data, including, but not limited to, results of assessments used to determine whether or not schools have made significant progress towards meeting their growth targets.

(2) Program implementation data, including, but not limited to, a review of startup activities, community support, parental participation, staff development activities associated with implementation of the program, percentage of fully credentialed teachers, percentage of teachers who hold emergency credentials, percentage of teachers assigned outside their subject area of competence, the accreditation status of the school if appropriate, average class size per grade level, and the number of pupils in a multitrack year-round educational program.

(3)(A) Pupil performance data, and its impact on the API, for each of the following subgroups:

(i) English language learners.

(ii) Pupils with exceptional needs.

(iii) Pupils that qualify for free or reduced price meals and are enrolled in schools that receive funds under Chapter 1 of the federal Elementary and Secondary Education Act of 1965, as amended by the Augustus F. Hawkins–Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (P.L. 100–290).

(B) Information concerning individual pupils may not be disclosed in the process of preparing pupil performance data pursuant to this subdivision.

(d) The Superintendent of Public Instruction shall recommend and the State Board of Education shall approve a schedule for biennial evaluations of the programs established pursuant to this chapter, subsequent to the evaluation required by this section. The biennial evaluations shall be submitted, with appropriate recommendations, by June 30 of every odd-numbered year, commencing with the year 2003.

SEC. 2. (a) The sum of one hundred ninety-three million two hundred thousand dollars ($193,200,000) is hereby appropriated according to the following schedule:

(1) Sixty–three million seven hundred four thousand dollars ($63,704,000) from the General Fund to the Superintendent of Public Instruction for allocation to school districts for purposes of providing funding for planning and grants for implementing the Immediate Intervention/Underperforming Schools Program as set forth in Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28 of the Education Code.

(2) Thirty–two million four hundred forty-six thousand dollars ($32,446,000) from the Federal Trust Fund to the Superintendent of Public Instruction for allocation to school districts for purposes of providing funding for planning and grants for implementing the Immediate Intervention/Underperforming Schools Program as set forth in Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28 of the Education Code.

(3) Ninety–six million one hundred fifty thousand dollars ($96,150,000) from the General Fund to the Superintendent of Public Instruction for allocation to school districts that meet or exceed performance growth targets established by the board pursuant to the High Achieving/Improving Schools Program as set forth in Article 4 (commencing with Section 52056) of Chapter 6.1 of Part 28 of the Education Code. Funds appropriated pursuant to this paragraph that have not been allocated by June 30, 2000, shall be available for allocation and expenditure for purposes of this paragraph in the 2001–02 fiscal year.

(4) Nine hundred thousand dollars ($900,000) from the General Fund to the Superintendent of Public Instruction to provide support services related to programs established by the Public Schools Accountability Act of 1999 pursuant to Chapter 6.1 (commencing with Section 52050) of Part 28 of the Education Code.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraphs (1) and (3) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1999–2000 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1999–2000 fiscal year.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

EXHIBIT 4
COPIES OF REGULATIONS CITED

HISTORY

1. New NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39). For prior history see Register 74, No. 52.
2. Repealer and new section filed 11–29–79; effective thirtieth day thereafter (Register 79, No. 48).

§ 1022. Recording Test Scores.

Scores for individual pupils on these tests shall not be used by school districts or teachers for individual diagnosis or placement, or as a basis for any other decisions which would affect the pupil's school experience. Scores from these tests shall not in any manner be included on a pupil's cumulative school record.

HISTORY

1. Amendment filed 12–26–74; effective thirtieth day thereafter (Register 74, No. 52).

§ 1023. Security of Test Material.

In order to afford protection to the security and reliability of the tests given pursuant to this article, all officers and employees of the district and other persons concerned with the state testing program shall take all reasonable precautions to prevent pupils from learning in advance of the specific content of the tests.

HISTORY

1. Amendment filed 12–26–74; effective thirtieth day thereafter (Register 74, No. 52).

§ 1023.1. Practice Exercises.

No practice exercises other than those specifically designated or approved by the State Department of Education shall be given to pupils in preparation for the testing program or in the particular test used.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600–60614 and 60640–60644, Education Code.

HISTORY

1. New section filed 11–29–79; effective thirtieth day thereafter (Register 79, No. 48).

§ 1024. Responsibility of the County Superintendent of Schools.

The county superintendent is requested to cooperate with and give assistance to each school district under his jurisdiction which seeks such assistance from him in carrying out duties imposed on it by Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code. In addition for any district which does not have a district superintendent, the county superintendent shall make certain that the tests are administered in accordance with these regulations and with the instructions and testing procedures developed for the tests.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600–60614 and 60640–60644, Education Code.

HISTORY

1. Amendment filed 9–25–69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 12–26–74; effective thirtieth day thereafter (Register 74, No. 52).
3. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
4. Amendment filed 11–29–79; effective thirtieth day thereafter (Register 79, No. 48).

§ 1025. Related Information.

Each school district superintendent shall furnish to the State Department of Education such other pupil and school information that is requested by the Department in order to carry out the provisions of Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code and to properly analyze and evaluate the test results as required by Sections 60604.5 and 60660 of the Education Code.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600–60614 and 60640–60644, Education Code.

HISTORY

1. New section filed 12–26–74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment of section and repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment filed 11–29–79; effective thirtieth day thereafter (Register 79, No. 48).

§ 1026. Reporting Test Results.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60607 and 60640, Education Code.

HISTORY

1. New section filed 12–26–74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment filed 9–27–76; effective thirtieth day thereafter (Register 76, No. 40).
3. Repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
4. Repealer filed 11–29–84; effective thirtieth day thereafter (Register 84, No. 48).

Article 1.5. Education Improvement Incentive Program

§ 1030. Computation of Change in a School's Performance.

(a) The formula in subsection (b) shall be applied by the State Department of Education to all secondary schools eligible to compete in the Education Improvement Incentive Program and whose performance in the prior fiscal year has decreased from that in the next preceding fiscal year. All schools with a 12th grade enrollment of 50 students or fewer and all continuation education schools are excluded from the computation.

(b) The formula:

(1) Subtract the school's prior year composite score on the California Assessment Program (CAP) from the current year score to compute a change score.

(2) Regress the number of students tested in CAP and the square of the number of students tested onto the change score using a standard multiple regression procedure.

(3) Using the results of the multiple regression, compute a predicted change score.

(4) Subtract the actual change score obtained by the school from the predicted change score to obtain a residual.

(5) Studentize the residual to have a mean of zero and a standard deviation of 1.

(6) Identify those schools which have a studentized residual equal to or less than minus 1.5. A studentized residual is the ratio of the residual to its standard error after the model has been fit and predicted change scores and residuals calculated. The predicted change scores are calculated from the estimated regression equation. The residuals are calculated as actual minus predicted.

(7) For those schools identified in paragraph (6) of this subsection, the incentive award for the current year shall be based on the improvement in performance between the current year and the 1983–84 fiscal year or the fiscal year in which the school first participated in the incentive program.

(c) Any school whose incentive award is adversely affected by a calculation pursuant to subdivision (b) may appeal to the Superintendent of Public Instruction.

NOTE: Authority cited: Sections 33031 and 54653.6, Education Code. Reference: Section 54653.6, Education.

HISTORY

1. New section filed 5–1–87; operative 5–31–87 (Register 87, No. 20).

Article 1.7. Award Programs Linked to the Academic Performance Index (API)

§ 1031. Intent of the Regulations.

(a) The Academic Performance Index (API) measures the performance of California public schools, especially the academic performance of pupils, and demonstrates comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools pursuant to

Education Code section 52052 and the Framework for The Academic Performance Index, July 1999 and The 1999 Base Year Academic Performance Index, December 15, 1999, which are incorporated herein.

(b) The purpose of Article 1.7 is to implement the programs established by two statutes relating to the API:

(1) The Governor's Performance Award Program of the Public Schools Accountability Act of 1999 (Education Code sections 52050 et seq.).

(2) The Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650–44652, 44654(b), 52052 and 52057, Education Code.

HISTORY

1. New article 1.7 (sections 1031–1038) and section filed 12–28–2000 as an emergency; operative 12–28–2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–27–2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12–28–2000 order, including amendment of subsection (b), transmitted to OAL 4–27–2001 and filed 6–11–2001 (Register 2001, No. 24).
3. Amendment of subsection (b), repealer of subsection (b)(3) and amendment of NOTE filed 1–8–2002; operative 1–8–2002 (Register 2002, No. 2).

§ 1032. General Eligibility Criteria for Award Programs Related to API Growth.

(a) For purposes of this Article, "schools" shall be defined as all schools, including charter schools, that receive a ranking on the API including schools participating in the Immediate Intervention/Underperforming Schools Program. These schools are eligible to participate in the award programs identified in Section 1031.

(b) For the purposes of these award programs, the API shall be the measure of accountability for all schools, except those that fall under the alternative accountability system, once such a system is adopted by the State Board of Education as required by Education Code section 52052(g). The Superintendent of Public Instruction will develop an alternative accountability system for schools with fewer than 100 valid test scores, schools that fall under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools.

Alternative schools may elect to be part of the API accountability system for the purposes of awards and interventions pursuant to the API. If the school elects to be part of the API accountability system, the school shall remain in the system for at least the three subsequent years.

(c) For the purposes of these award programs, growth API means the API in the second year of two consecutive years for which the API is calculated.

(d) In 2001 and subsequent years, a school's API shall be considered invalid under any of the following circumstances:

(1) The local educational agency notifies the California Department of Education (department) that there were adult testing irregularities at the school affecting 5% or more of the pupils tested.

(2) The local educational agency notifies the department that the API is not representative of the pupil population at the school.

(3) The local educational agency notifies the department that the school has experienced a significant demographic change in pupil population between the base year and growth year, and that the API between years is not comparable.

(4) The school's proportion of parental waivers compared to its Standardized Testing and Reporting Program (STAR) enrollment, pursuant to Education Code section 60640 et seq., is equal to or greater than 15 percent for the 2000 STAR. For the 2001 STAR and each subsequent STAR, the school's proportion of parental waivers compared to its STAR enrollment is equal to or greater than 10 percent, except when the school's proportion of parental waivers compared to its STAR enrollment is equal to or greater than 10 percent but less than 20 percent. In this case, the department will conduct standard statistical tests to determine whether the pupils tested at the school represent the school's pupils by grade level. If the standard statistical tests demonstrate that the pupils tested represent the school's pupils, then the school's API shall be considered valid. If the standard statistical tests demonstrate that the pupils tested do not represent the school's pupils, then the school's API shall be considered invalid. There shall be no rounding in determining this minimum parental waiver proportion (i.e., 9.99 percent is not 10 percent).

(5) In any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the school's proportion of the number of test–takers in that content area compared with the total number of test–takers is less than 85 percent. There shall be no rounding in determining the proportion of test–takers in each content area (i.e., 84.99 percent is not 85 percent).

(6) If, at any time, information is made available to or obtained by the department that would lead a reasonable person to conclude that one or more of the preceding circumstances occurred. If after reviewing the information, the department determines that further investigation is warranted, the department may conduct an investigation to determine if the integrity of the API has been jeopardized.

The department may invalidate or withhold the school's API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.

(e) If a school's API is considered invalid pursuant to subdivisions (d)(1), (d)(2), (d)(4), or (d)(5), the school is ineligible for participation in any of the award programs for the current and subsequent year. If a school does not receive an API pursuant to subdivision (d)(3), the school is ineligible for participation in any of the award programs for the current year only.

(f) If fewer than 5% of the pupils tested are affected by adult testing irregularities, the school will receive a valid API, however, the school is not eligible for participation in any of the award programs for the current year.

(g) All schools that have an API score increase of at least 5% of the difference between the school's prior year score and 800 or an API score increase of five points, whichever is greater, and have comparable improvement as defined in subdivision (h), and meet the minimum participation rate in subdivision (i), shall be recognized through the Governor's Performance Award Program.

(h) Comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) shall be defined as an API score increase of at least 80% of the school's API growth target as established pursuant to Education Code section 52052 except when the sum of a subgroup's growth target and the subgroup's API is greater or equal to 800. In these cases, comparable improvement shall be defined as the distance from the subgroup's API to 800. In no case shall comparable improvement be less than 4 points.

(i) For elementary and middle schools, the minimum participation rate for the awards programs shall be 95 percent; for high schools, it shall be 90 percent, with the intention of increasing this rate to 95 percent in the future.

(1) If the test publisher determines, for grades 2 to 11, that a pupil did attempt to take any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the pupil shall be counted as a test–taker.

(2) No pupil shall be counted more than once as a test–taker.

(3) The participation rate shall be calculated as follows:

(A) Divide the total number of test–takers in grades 2–11 at the school site by

(B) The total enrollment in grades 2–11 minus the number of pupils exempted from taking the test either by their Individualized Education Program (IEP) pursuant to Education Code section 60640(e) or parental waivers pursuant to Education Code section 60615.

(4) For purposes of subdivision (3)(B) above, enrollment shall be determined by the enrollment information collected by the department as part of the Standardized Testing and Reporting Program (STAR), pursuant to Education Code sections 60640 et seq.

(5) In the case of pupil testing irregularities, the scores of affected pupils shall be eliminated from the calculations of the school's growth API, although the pupils are counted as tested and shall contribute to the school's participation rate.

(6) There shall be no rounding in determining this minimum participation rate (i.e., 94.9 percent does not equal 95 percent).

(j) The department will publish on its web site a report of STAR testing and demographic data used in the calculation and reporting of the API. Prior to publishing the report on its web site, the department will announce the report in writing and/or by electronic communication to each local educational agency that appears in the API report. The local educational agency must notify the department and the test publisher via e-mail or in writing whether there are errors in the STAR testing or demographic data. The local education agency's notification must be received by the department and the test publisher within thirty (30) calendar days of the initial date of publication of the STAR testing and demographic data on the department's web-site. The local educational agency must submit all data corrections to the test publisher in writing or e-mail. The test publisher shall specify a deadline for submittal of the data corrections that is no less than forty-five (45) calendar days after the date of publication of the STAR testing and demographic data.

(k) The criteria for awards eligibility based on the 2001 growth API for a school that had its 2000 API invalidated solely because of excessive parental waivers pursuant to subdivision (d)(4) or for a school whose school district obtained a State Board of Education waiver of Section 1032(c) on their behalf will be (1) twice the school's 1999 growth target or 10 points, whichever is greater, and (2) comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a), and the school has met all other 2001 eligibility criteria. Comparable improvement shall be defined as twice the 1999 subgroup target for each subgroup, except when the sum of a subgroup's 1999 growth target and the subgroup's 1999 API is greater than or equal to 800. In these cases, comparable improvement shall be defined as two times the distance from the subgroup's 1999 API to 800. In no case shall comparable improvement be less than 8 points. While being eligible for the Governor's Performance Awards, such a school would not be eligible for awards under the Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650–44652, 44654(b), 52052 and 52057, Education Code.

HISTORY

1. New section filed 12–28–2000 as an emergency; operative 12–28–2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–27–2001 or emergency language will be repealed by operation of law on the following day.
2. New subsection (d)(4) and subsection renumbering filed 1–30–2001 as an emergency; operative 1–30–2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5–30–2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–28–2000 and 1–30–2001 orders, including further amendments, transmitted to OAL 4–27–2001 and filed 6–11–2001 (Register 2001, No. 24).
4. Amendment of subsections (d)(4), (d)(6) and (h)(1) and new subsection (j) filed 8–2–2001 as an emergency; operative 8–2–2001 (Register 2001, No. 31). A Certificate of Compliance must be transmitted to OAL by 11–30–2001 or emergency language will be repealed by operation of law on the following day.
5. Amendment of section heading and new subsection (i) filed 11–15–2001; operative 11–15–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 46).
6. Certificate of Compliance as to 8–2–2001 order, including further amendment of section and NOTE, transmitted to OAL 11–21–2001 and filed 1–8–2002 (Register 2002, No. 2).

§ 1033. Award Funding Criteria for Governor's Performance Award Program.

(a) Schools that meet the eligibility requirements in 2000–01 for the Governor's Performance Award Program (GPA) shall receive a per pupil award amount for each of their eligible pupils. Eligible pupils are those who received a score on any subject matter area test (Total Reading, Total Math, Language, Spelling, Science, or Social Science) of the nationally normed test pursuant to Education Code section 60642 and a score on any standards-based achievement test pursuant to Education Code section 60642.5. A score on the nationally normed test pursuant to Education Code section 60642 can be a percentile, the number correct, a scale score, or a normal curve equivalent. A score on the standards-based achievement test pursuant to Education Code section 60642.5 is defined as the performance level.

(b) The amount allocated for this award shall be determined on a prorata basis from the total amount of funding available in the annual State Budget.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Section 52057, Education Code.

HISTORY

1. New section filed 12–28–2000 as an emergency; operative 12–28–2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–27–2001 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsections (a)(3) and (b) and new subsections (b)(1)–(5) filed 1–30–2001 as an emergency; operative 1–30–2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5–30–2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–28–2000 and 1–30–2001 orders, including new subsection (b)(6), transmitted to OAL 4–27–2001 and filed 6–11–2001 (Register 2001, No. 24).
4. Amendment of section heading and subsection (a), repealer of subsections (a)(1)–(3), redesignation and amendment of former subsection (a)(4) as subsection (b), renumbering of former subsections (b)–(b)(6) to section 1034, subsections (b)–(c) and new NOTE filed 1–8–2002; operative 1–8–2002 (Register 2002, No. 2).

§ 1034. Specific Eligibility Criteria for the Certified Staff Performance Incentive Act.

(a) To be eligible to receive awards under the Certified Staff Performance Incentive Act, school sites must have attained a statewide decile rank of 1–5 in the base year of the current growth API and must meet all of the relevant statutory requirements and each of the following requirements:

(1) Each school site must have improved by a minimum of two times its annual growth target on its API between the base year and the current growth year.

~~(2) All numerically significant ethnic or socioeconomically disadvantaged~~ subgroups pursuant to Education Code section 52052(a) at a school must have improved by a minimum of two times their annual growth targets, except when the sum of a subgroup's growth target and the subgroup's API is greater than or equal to 800. In these cases, comparable improvement shall be defined as two times the distance from the subgroup's API to 800. In no case shall comparable improvement be less than 8 points.

(3) Each school site shall have the required participation rate for the current growth API, pursuant to Section 1032(i), as calculated by the California Department of Education. Each school must have been eligible for API awards in the year preceding the current API growth year.

(4) The local educational agency must complete an application on behalf of its eligible schools, which shall include:

(A) Certification that the data used in the API calculations from the schools is accurate, and

(B) The number of certificated positions on an FTE basis at each of the eligible schools pursuant to subdivision (b) below.

(b) To participate in the Certificated Staff Performance Incentive Act (CSPIA) awards, school districts and charter schools shall certify, as appropriate, the number of full-time equivalent (FTE) certificated employees employed by the school district or charter school, whether still resident in the school district or not, as of the second principal apportionment for the year in which the award was earned at each school site under their jurisdiction that is eligible for awards in accordance with Education Code section 44651.

(1) The "number of full-time equivalent (FTE) certificated employees employed by the school district or charter school, whether still resident in the school district or not, as of the second principal apportionment"

shall be defined as the number of funded certificated FTE positions at the school site as of the date established annually by the department pursuant to Education Code sections 41335 and 41601 for the submission by school districts of the attendance documents necessary for the department to prepare the second principal apportionment.

(2) "Employees at the school site" shall be defined as positions filled by individuals employed by the school district or charter school at least 50 percent of the school year in which the award was earned, and who spent at least 50 percent of his/her total annual work hours at school sites, and who spent at least 20 percent of his/her total annual work hours at the eligible school site working with pupils in any of grades K–12. County office of education and state employees are not eligible to participate.

(3) "Full–time equivalent (FTE) positions" may include "full–time" and "part–time" positions. A "full–time" certificated position shall be defined as a position filled by a person that is required to work a minimum of a six hour work day. Workdays longer than six hours, if in accordance with local collective bargaining agreements, should be used as the basis for "full–time" and "part–time" FTE calculation. One person cannot generate more than one FTE position. Part–time positions shall generate a partial FTE on a proportional basis.

(4) "Certificated employee" shall be defined as an employee in a position requiring certification and who holds a document issued by the California Commission on Teacher Credentialing authorizing service in the public schools of California.

(5) "Document" shall be defined as a credential, emergency permit, or waiver issued by the California Commission on Teacher Credentialing.

(c) Starting in 2001–02, the deadline for submitting the application, including the certification of FTEs to the department shall be within the close of business on the 45th calendar day after the department's posting on its website of the certified list of schools eligible to receive the Certificated Staff Performance Incentive Act award. If a school's application is not received by the department by the deadline, the school will not receive the award.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650–44652 and 44654(b), Education Code.

HISTORY

1. New section filed 12–28–2000 as an emergency; operative 12–28–2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–27–2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12–28–2000 order, including amendment of subsection (d)(3), transmitted to OAL 4–27–2001 and filed 6–11–2001 (Register 2001, No. 24).
3. Repealer of former section 1034, new subsections (a)–(a)(4)(B), and renumbering and amendment of former section 1033, subsections (b)–(b)(6) to section 1034, subsections (b)–(c) filed 1–8–2002; operative 1–8–2002 (Register 2002, No. 2).

§ 1035. Award Funding Criteria for Certificated Staff Performance Incentive Act.

Distribution of Certificated Staff Performance Incentive Act awards pursuant to the 2000 growth API shall be as follows, with at least one thousand (1,000) $25,000 awards, three thousand seven hundred fifty (3,750) $10,000 awards and up to seven thousand five hundred (7,500) $5,000 awards being distributed in the process. The total amount of funding for this Act provided in the annual State Budget shall be distributed proportionally across each of elementary, middle, and high schools statewide by the number of certificated staff as reported in the most current CBEDS report.

(a) Schools will be declared eligible or ineligible according to the rank of schools pursuant to Education Code section 52052. An "eligible list" will be determined for each type of school (elementary, middle, and high) for the awards distribution.

(b) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion $25,000 per certificated school site staff FTE position to be distributed to the certificated school site staff in certificated positions at that school. The number of FTE positions counted shall be subtracted from the awards pool of 1,000 FTE positions.

(c) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion $25,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(d) This process shall continue until all 1,000 $25,000/FTE awards have been allocated to the eligible school sites. If, before all 1,000 awards have been allocated, an eligible school site has more eligible FTE positions than remain in the 1,000 FTE awards pool, all of that school site's FTE positions shall receive $25,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement over it's API growth target in the prior year shall receive $25,000 awards.

(e) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target that did not receive $25,000 rewards, the Superintendent of Public Instruction shall apportion $10,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool of 3,750 $10,000 awards.

(f) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion $10,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(g) This process shall continue in consecutive order until all 3,750 $10,000/FTE awards have been allocated to the school sites. If, before all 3,750 awards have been allocated, an eligible school site has more eligible FTE positions than remain in the 3,750 FTE pool, all of that school site's FTE positions shall receive $10,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement over its API growth target in the prior year shall receive $10,000 awards.

(h) The sum of the awards distributed under subdivisions (b) through (g) shall be subtracted from $100 million, and the remainder shall be divided by $5,000 to determine the maximum number of $5,000 awards to be distributed. The $5,000 awards shall be distributed in the same manner as the $25,000 and the $10,000 awards, with the exception that the distribution process will end when the pool of available $5,000 awards is not sufficient to fully fund the eligible FTE positions of the next school or schools in line for the awards.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650–44652, 44654(b), 52052 and 52057, Education Code.

HISTORY

1. New section filed 12–28–2000 as an emergency; operative 12–28–2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–27–2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of NOTE (Register 2001, No. 4).
3. Amendment of subsections (d) and (g) filed 1–30–2001 as an emergency; operative 1–30–2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5–30–2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–28–2000 and 1–30–2001 orders, including further amendments, transmitted to OAL 4–27–2001 and filed 6–11–2001 (Register 2001, No. 24).
5. Amendment of subsections (d) and (g) filed 1–8–2002; operative 1–8–2002 (Register 2002, No. 2).

§ 1036. Waiver Deadline.

Starting in 2000–01, the deadline for submitting to the department a waiver of any of Sections 1031 through 1039 shall be no later than the close of business on the 60th calendar day after the department's posting on its website of the certified list of schools eligible to receive the Governor's Performance Award.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Sections 52052 and 52057, Education Code.

HISTORY

1. New section filed 12–28–2000 as an emergency; operative 12–28–2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–27–2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12–28–2000 order, including amendment of subsection (a), transmitted to OAL 4–27–2001 and filed 6–11–2001 (Register 2001, No. 24).
3. Amendment of section heading, repealer and new section and amendment of NOTE filed 1–8–2002; operative 1–8–2002 (Register 2002, No. 2).

§ 1037. Exemption from Statutory Benefits Calculations.

Certificated Staff Performance Incentive Act awards shall not be considered compensation for the purposes of calculating retirement benefits or contributions, or for any other benefit that an employee is eligible to receive where the benefit or contribution amount is calculated based on compensation.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Section 44654(b), Education Code.

HISTORY

1. New section filed 12–28–2000 as an emergency; operative 12–28–2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–27–2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12–28–2000 order transmitted to OAL 4–27–2001 and filed 6–11–2001 (Register 2001, No. 24).
3. Amendment filed 1–8–2002; operative 1–8–2002 (Register 2002, No. 2).

§ 1038. Exemption from Indirect Costs.

Governor's Performance Awards and Certificated Staff Performance Incentive Act awards shall not be subject to school district, county, or school indirect charges or other administrative charges.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650–44652, 44654(b), 52052 and 52057, Education Code.

HISTORY

1. New section filed 12–28–2000 as an emergency; operative 12–28–2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–27–2001 or emergency language will be repealed by operation of law on the following day.
2. Renumbering of former section 1038 to section 1039 and new section 1038 filed 1–30–2001 as an emergency; operative 1–30–2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5–30–2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–28–2000 and 1–30–2001 orders, including amendment of NOTE, transmitted to OAL 4–27–2001 and filed 6–11–2001 (Register 2001, No. 24).
4. Amendment of section and NOTE filed 1–8–2002; operative 1–8–2002 (Register 2002, No. 2).

§ 1039. Use of Award Funds Allocated to School Sites.

Use of funds at the school site for the Governor's Performance Award Program shall be decided by the existing school site governance team/school site council representing major stakeholders and then ratified by the governing board of each local educational agency.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Sections 52052 and 52057, Education Code.

HISTORY

1. Renumbering of former section 1038 to section 1039 filed 1–30–2001 as an emergency; operative 1–30–2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5–30–2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–30–2001 order transmitted to OAL 4–27–2001 and filed 6–11–2001 (Register 2001, No. 24).
3. Amendment of section and NOTE filed 1–8–2002; operative 1–8–2002 (Register 2002, No. 2).

Article 2. Physical Performance Testing Programs

§ 1040. Definition of "Pupil."

NOTE: Authority cited: Sections 60601 and 60603, Education Code.

HISTORY

1. Repealer filed 9–25–69; effective thirtieth day thereafter (Register 69, No. 39).
2. New NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 1041. Required Program.

During the period of March–May, inclusive, the governing board of each school district maintaining grades 5, 7, and 10, or any one or more of such grades, shall administer to each pupil in those grades the physical performance test designated by the State Board of Education.

Each physically handicapped pupil and each pupil who is physically unable to take all of the physical performance test shall be given as much of the test as his condition will permit.

NOTE: Authority cited: sections 33031 and 60603, Education Code. Reference: Sections 60602(c), 60603 and 60608, Education Code.

HISTORY

1. Amendment filed 9–25–69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 5–18–72; effective thirtieth day thereafter (Register 72, No. 21).
3. Amendment filed 5–11–89 and 5–15–89; operative 5–15–89 (Register 89, No. 20).

§ 1042. Recommended Program.

When adequate facilities are available, tests pursuant to this article may be given more often than once yearly.

§ 1043. Methods of Administration.

The tests shall be scored by employees of the district or the employees of the county superintendent f schools. The scoring thereof shall be in compliance with the instructions of the publisher or developer for scoring, and the scores shall be submitted to the governing board of the school district on the dates required by, and on forms prescribed or approved by, such governing board.

§ 1044. Recording Test Scores.

The district superintendent or the county superintendent of schools, as the case may be, shall require that the pupil's scores on each of the tests given him in the physical performance testing program be included in the pupil's cumulative record. This requirement may be met by maintaining the regular physical performance testing program card with the cumulative record form.

§ 1045. Responsibility of County Superintendent of Schools.

As soon as possible after the State Board of Education, pursuant to subdivision (d) of Education Code Section 60603, has designated the physical performance test to be used during the ensuing school year in any grade, the county superintendent of schools shall secure, and until the close of the school year for which the test was designated, shall keep on file for reference purposes, a specimen set of that test.

The county superintendent of schools shall provide assistance to school districts in administering, recording, and reporting results of, the test.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 1046. Use of Reports.

The governing board of each school district shall use the reports of test scores submitted as required in this article for identifying physically underdeveloped pupils adapting instruction to individual needs, appraising pupil progress, adapting the physical education program to meet pupil needs and for such other purposes as may be permitted or required by law.

Article 3. Reading Testing Programs in Grades 1, 2, and 3

NOTE: Authority cited: Sections 33031, 54103, 60602, 60603, 60607, 60640, Education Code. Reference: Sections 60640–60644, Education Code.

HISTORY

1. Repealer of Article 3 (Sections 1050–1060) filed 11–29–79; effective thirtieth day thereafter (Register 79, No. 48). For prior history, see Registers 77, No. 39,