



2007 Back-To-School Conferences

The Top Ten Issues for 2007-08 Scott P. Plotkin, Executive Director

1. “The Year of Education”

True to his roots in show business, Governor Arnold Schwarzenegger thinks big, and strives to organize his Administration around grand, large themes. 2006 was the Year of Building, with the Governor’s Strategic Growth Plan for California holding center stage, and 2007 has featured a comprehensive effort to implement health care reform. The Governor has promised that 2008 will be “The Year of Education,” and his Administration is already at work on preparing a set of education policy initiatives that will be announced during the annual State of the State speech in January.

Though the Governor’s initiatives remain months away, the activity this year surrounding education funding and reform has been brisk, and has featured a veritable cast of thousands. In March, the Institute for Research on Education Policy and Practice out of Stanford University released “Getting Down to Facts: School Finance and Governance.” The 23 studies were commissioned by the Governor’s Committee on Educational Excellence, Superintendent of Public Instruction Jack O’Connell, Senate President Pro Tem Don Perata and Assembly Speaker Fabian Núñez; and were funded by the William and Flora Hewlett Foundation, the Bill and Melinda Gates Foundation, the James Irvine Foundation and the Stuart Foundation.

The goal of this research was to set the stage for a statewide dialogue on the resource needs and structural changes that may be necessary in the K-12 public education system. Specifically, the research attempted to answer the following questions:

- What do the school finance and governance systems look like in California?
- How can dollars be used more effectively to meet outcome goals for students?
- To what extent are additional resources necessary to meet our goals?

Although the project authors avoided making specific reform recommendations, the summary document of key findings suggests a new approach to reform that would:

- implement reforms that improve decision-making at all levels by improving the alignment between the accountability system and the decision-making responsibilities, including increasing flexibility at the local level;
- improve information collection both at the state level by following students over time and linking them with the resources they receive, and at the local level, where networks of teacher and administrators could learn from each other’s experiences;
- refine policies to attract and retain high-quality teachers and administrators while also removing excessive barriers to dismissing chronically ineffective teachers;
- simplify school finance formulas so that similar districts are treated similarly and differences across districts are treated reasonably and consistently;
- target resources to improve the outcomes of students living in poverty, most of whom are unable to reach state goals in the current system; and
- make the state budgeting process more predictable, removing the peaks and valleys in annual appropriations and establishing distributional decisions earlier in the spring so that schools and districts can be more strategic in determining how best to use their resources for the next academic year.

**2007 Back-to-School Conferences
Top Ten Education Issues
Page 2**

CSBA's Role In The Adequacy Campaign

CSBA's work on the education adequacy campaign began in 2004 and will continue into the next year and beyond. There have been several significant accomplishments in 2007.

Last October, CSBA – in partnership with the League of Women Voters of California, the California State PTA, and Children Now – was awarded a second grant from the William and Flora Hewlett Foundation, in the amount of \$800,000 over two years, to continue work on the adequacy campaign. The initial grant from the Hewlett Foundation had focused on planning and building a coalition to identify the resources necessary to provide high-quality educational services to all California's children and to identify strategies to provide and effectively allocate those resources to the state's K-12 public school system. Over the course of 2006, the project partners laid the groundwork for this effort by conducting approximately 75 interviews with key opinion and political leaders in California. The interviews were intended to obtain the thoughts of those leaders on school funding, and gauge their receptiveness to joining a coalition to explore policy options for public education. An analysis of the outreach interviews, *School Finance Exploration Project*, included the following findings:

- **A focus on accountability** – California leaders are interested in ensuring that K-12 schools continue to be accountable for the academic achievement of students and for being good stewards of taxpayers' dollars.
- **A need for transparency** – Leaders believe that to achieve transparency the public education system needs to be more effective and open in its communication with the public about student academic achievement and the ways in which resources are spent.
- **A balance of stability and flexibility** – Interviewees maintained that California needs a long-term plan for achieving its goals, but simultaneously needs to ensure there is enough flexibility at the local level to be innovative and meet the unique needs of students and communities.
- **Adequate investments** – Along with structural changes, California leaders recognize the importance of matching investments with expectations of students and schools.
- **Equitable investments** – California leaders also believed that it will be essential to invest resources in every student based on their unique needs so that public education graduates become contributing members of our economy, society, and democracy.

In addition to these broad beliefs, several specific policy ideas generated interest, including:

- **Recruitment, retention and equitable distribution of staff** – California leaders identified several alternative compensation models and potential changes to working conditions.
- **Finance and governance** – The idea of a weighted student formula and allowing for local taxing authority were discussed by many interviewees.
- **Data systems** – California leaders called for more “user friendly,” timely, and transparent data.
- **Charter schools** – While not mentioned as frequently as other reform proposals, support for charter schools is significant in the state.
- **New revenue** – Various revenue options were identified during the interview process. Most interviewees felt that all Californians should invest in K-12 public education and at the same time taxes should be progressive in nature.

Utilizing the findings as the foundation for additional work, the second phase of the grant provided funding for the following activities, which are taking place (or will take place) in 2007 and 2008:

**2007 Back-to-School Conferences
Top Ten Education Issues
Page 3**

- Work with key constituency groups and policymakers to develop and further refine a balanced set of policy proposals that a) ensure an adequate and effective investment in public schools; b) are politically feasible; and c) positively impact students.
- Conduct additional outreach activities, such as one-on-one meetings, forums, Web-based seminars and other comparable strategies, to begin encouraging and supporting coalition building that would be aimed at promoting positive policy change.
- Research and develop tools and resources to educate and mobilize local school leaders, community members and other local partners.

In partnership with the Association of California School Administrators, CSBA has developed training for school leaders, in anticipation of the dialogue that will occur during the “Year of Education.” The goal of the training is to ensure that board members and superintendents are aware of statewide education finance and reform efforts, and are able to:

- Proactively engage their community about the existing school finance structure and how that finance structure does and does not align with the community’s education goals (i.e. how their school districts receives funding, what priorities the district has for existing resources, how resources are distributed between schools and what constraints currently exist in the system);
- Work with their community to envision what an ideal school would provide to students and lead a conversation about potential changes that would be needed in the system to reach that goal;
- Shape the public discussion by reaching out to and responding to the media; and
- Advocate locally and at the state level in ways that communicate their community’s vision and feeds into a broader campaign.

2. 2007 Budget Act

The state Legislature passed a budget for 2007-08 on August 21 – 52 days after the start of the fiscal year – and the governor signed it three days later. The concessions made to Senate Republicans in order to garner the two votes needed for the required two-thirds majority included changes to the California Environmental Quality Act related to transportation and water bonds and a commitment from Gov. Arnold Schwarzenegger to veto an additional \$700 million from the nearly \$103 billion spending plan in order to reduce the operating deficit to zero. While other Republican senators voted for some of the trailer bills, Dick Ackerman, R-Tustin, and Abel Maldonado, R-Santa Maria, were the only two from their party to vote for the budget itself.

There had been some discussion that Senate Republicans were also holding out for \$130 million for revenue limit equalization. Ultimately, this issue came off the table, and the final education budget approved by the Senate mirrors the one passed by the Assembly on July 20. This includes providing \$50.8 billion for K-12 education and full funding for cost-of-living adjustments for revenue limits and categorical programs. Due to tight revenues, the budget does not provide for program expansion and essentially will allow school districts only to maintain existing programs and services.

What Is Not Included

The final budget funds Proposition 98 at the minimum guarantee; however, that falls \$427 million short of the amount needed to fund base programs, including the across-the-board COLA. The budget addresses this by using \$350 million in one-time dollars to fund home-to-school transportation. Those one-time funds come from three sources: the Public Transportation Account (\$99 million), the Williams Emergency Repair Account (\$250 million) and the Proposition 98 reversion account (\$78 million). The budget also provides funding for a 4.53 percent COLA for revenue limits, categorical programs and higher enrollments in growing districts. The \$263 million CalWORKS child care shift to Proposition 98 was also approved.

This is essentially a base-line budget; therefore, the new and expanded programs proposed by the governor in January and May have been cut, including funding for student data systems, career technical education equipment and counselors, and teacher quality programs. Unfortunately, the budget also does not include funding for declining enrollment, mandates and elimination of deficits in supplemental instruction programs, or for the increased funding for special education that CSBA had sought.

Governor Vetoes \$700 Million

Gov. Schwarzenegger honored his commitment to Republicans to cut \$700 million from the budget that had been approved by the Legislature. This achieved one of the Senate Republican conditions – a zero operating deficit. Funding for education and public safety remained untouched. During the signing ceremony, the governor lauded the budget for reducing the deficit, maintaining a reserve and not raising taxes.

Education Trailer Bill

The education budget trailer bill, Senate Bill 80, addresses the following policy-related issues:

- *STAR testing in second grade:* Authorization for the Standardized Testing and Reporting program for second-graders expired July 1; an attempt to extend the sunset earlier this year stalled and never had a hearing. SB 80 allows the testing to continue until July 1, 2011.
- *School District of Choice:* This provision also expired July 1 and was the subject of legislation that was stalled in the Assembly Appropriations Committee. Under this option, districts can elect to become a School District of Choice, which allows students who don't reside in their district to attend a district school without the consent of their district of residence. The two-year extension only applies to school districts that were already participating prior to the July 1 sunset and requires them to report certain information that had previously been voluntary.
- *School meals:* The meal reimbursement rate for free and reduced-price meals is increased from 15 cents to 21 cents per meal, effective this year. Districts will have to certify by June 30, 2008, that they are not frying food items and not serving foods with trans fats or unhealthy oils.

3. Closing the Achievement Gap

Closing the Achievement Gap will be a critical theme underlying much of what occurs on the education front in 2008. This November, Superintendent of Public Instruction Jack O'Connell will host an Achievement Gap Summit in Sacramento, where educators from across the state will present best practices and strategies designed to close the gaps that currently exist in school districts. The Superintendent has also charged his P-16 Council to develop a set of proposals that can serve as his education platform in 2008.

Closing the Achievement Gap remained a critical theme underlying much of CSBA's work in 2007. Many different CSBA initiatives, from the School Finance Exploration Project to the Association's ongoing work on student wellness issues, included achievement gap components. In addition, the Association's governance training and continuing education events were designed, and in some instances modified, with achievement gap issues in mind.

Highlights of this work included the following:

Program Improvement. The urgency for all governing boards to understand their essential role in Program Improvement (PI) cannot be overstated. The requirements for districts designated as PI are highly prescriptive, and the sanctions for remaining in PI are severe. The strategies for *avoiding* Program Improvement status are at the heart of the governing board's responsibilities, and the benefits to students that result from the actions the board can take are among the reasons board members run for office.

This year, CSBA's Governance Institute worked to help boards understand the power of effective governance when they align and focus the district's efforts on the singular goal of improving student learning and

achievement. The key to success for any district governance team is for the board to work within its role and responsibilities, i.e., setting direction, establishing structure, providing support, ensuring accountability, and leading the community on education and children's issues.

Student Issues Conference Groups. In May 2005, CSBA's Board of Directors approved the implementation of a "conference model" that resulted in the development of *Student Issues Conference Groups* to reinforce CSBA's commitment to encourage and support state and local efforts to close the achievement gap.

The work to advance the goals of the Conference Groups continued in 2007, and focused on the following priorities:

Assess the field. This work was designed to define the current status of achievement gap efforts at the district level. A survey was sent to school districts, seeking to address the following questions:

- Is student achievement/closing the achievement gap the top priority among CSBA members?
- Are districts already working together – with each other or with external entities – to address the achievement gap? With whom are they working?
- What strategies to close the achievement gap are districts currently using?

Establish a baseline. Staff is currently examining data compiled from the survey, and analyzing it against student achievement data collected by the California Department of Education. This will allow CSBA to identify those districts that are making improvements, and identify strategies that appear to be working effectively at the district level.

Using these data, a Student Issues Conference Groups Web site will be created, where CSBA will post research on student achievement, and research on effective governance and board practices. Staff is also conducting research to determine whether it will be possible to plot an interactive map of school districts targeted for student achievement, and creating a "blog" where districts can participate in an online "chat" with each other on student achievement issues.

4. Public School Accountability

No Child Left Behind Reauthorization

Since its adoption, CSBA has been a leader in the fight to modify the No Child Left Behind Act to ensure that schools and districts are held accountable for student success in a reasonable fashion. With reauthorization of the Act pending, the second phase of the Association's *Fix NCLB campaign* was launched in 2007. The campaign materials consisted of key messages, talking points and advocacy tips for use by school governance teams in their local communities to engage and educate parents, teachers, community leaders and lawmakers on the pitfalls of NCLB – and most importantly, how the law can be fixed to ensure that it achieves the laudable goals it was created to meet.

Key points of the campaign included the following:

Adequate Yearly Progress – Sanctions Compel Narrowing of Curriculum. NCLB has forced districts to focus their efforts almost exclusively on English/Language Arts and math in order to avoid NCLB sanctions. This has resulted in a dramatic reduction in programs for the arts, science, history/social science and physical education.

Adequate Yearly Progress – Participation Rates. California law allows parents to opt their children out of any test they wish. The NCLB requirement that 95 percent of students must be tested is obviously arbitrary. Under NCLB, the whole district can be classified as failing and suffer severe sanctions if the parents of just a few kids in a certain subgroup opt their children out of state testing. Further, special education students who take state

assessments with the modifications prescribed in their Individualized Education Plan are deemed “non participants” for purposes of calculating school participation rates.

Adequate Yearly Progress – Growth Measures. California has its own rigorous accountability system that gives schools credit for improving student achievement. Under NCLB, schools that have worked hard and made real progress raising student achievement are often labeled failures because they haven’t reached NCLB’s single, arbitrary measure of success. Further, there are up to 46 different ways to fail AYP and NCLB provides no distinction for sanctions if a school or district has failed one or all those 46 expectations. The AYP measurement system needs to be expanded to permit school districts greater flexibility in using alternate methods of measuring AYP, as long as the ultimate goal of NCLB – increased level of achievement for all students – is achieved.

Proficiency. NCLB should maintain high standards in a manner that recognizes and rewards the academic growth of students from year to year as they move towards proficiency. The Act should continue to require tangible improvement, but allow states to use their own high standards to gauge school performance.

Adequate Yearly Progress – Subgroups. Children who have characteristics of multiple subgroups have their scores calculated in each of those subgroups, confounding the results of the subgroup scores and making AYP less useful for diagnostic and intervention purposes.

Additional issues addressed in the campaign, which served as the foundation for CSBA’s NCLB advocacy efforts in 2007, included *Sanctions, Highly Qualified Teachers, Special Education, English Learner Students, Full Funding, and Flexibility.*

At a regional NCLB meeting convened by the Solano County Office of Education in August, Congressman George Miller (D-California) spoke of the need to ensure that the reauthorization continue to provide high expectations for all students, high standards for all students and high quality teachers for all students. He spoke briefly about the “themes” of his draft plan. It is Mr. Miller’s intent to take a reauthorization bill to the House floor by the end of September.

On August 28, the leaders of the House Education and Labor Committee released a draft discussion plan for reauthorizing NCLB. The draft proposal is being used to bring about discussion on a variety of ideas as the committee moves towards introducing a bill that will contain major changes to current law.

As drafted, this discussion proposal would allow states to use more than annual tests in reading and math to rate schools; give credit to states for students who are projected to reach proficiency within three years; and require states to test certain students with limited English skills in their native language. For schools that fall only slightly short of academic targets, the proposal would change the requirements to provide after-school tutoring and student transfers.

This proposal would also allow states to rate schools based on the progress of individual students, rather than comparing, for example, this year’s third-graders with last year’s. That would build on a trial “growth-model” accountability program the Bush Administration recently launched.

The discussion draft also places new emphasis on high school dropouts, proposing resources to help schools with the lowest graduation rates have “data-driven decision making, improved curriculum and instruction, personalization of the school environment, staff collaboration and professional development and individualized student support,” according to a summary of the plan. Further, accountability rules would be relaxed to allow the use of more than test scores to rate schools. Other measures of progress, according to the discussion draft’s summary, could include “graduation rates, dropout rates, college-going rates, percentages of students successfully completing end-of-course exams for college preparatory courses” and improvement in the performance of the worst and best students in a school.

The House Education and Labor Committee held a full hearing on the draft discussion proposal on September 10. During the five and a half hour hearing, 44 witnesses were heard from – including national associations (including the National School Boards Association), business groups and Career-Technical Education organizations, think tanks and non-profit research organizations, civil rights groups, individual teachers, principals and superintendents (from Florida, Nebraska, Washington D.C., Colorado, and LAUSD).

Those testifying talked about the items they appreciated in the draft discussion and where there were problems. Most organizations appreciated that the discussion draft contains a growth model, provides for multiple measures to gauge student success and the focus on high schools. However, much was also said about:

- The critical lack of funding to implement current law let alone the new components;
- Pay for Performance (even though it's a voluntary program that would have to be bargained);
- The danger of losing transparency and simplicity in the accountability system as it adds more "data" points; and
- The ability of districts/states/USDOE to collect and process the increased data components and plans.

Changes to Academic Performance Index

Two bills that would have significant impacts on the Academic Performance Index (API) have been approved by the Legislature, and await action by Governor Schwarzenegger:

AB 400 (Núñez). Under the provisions of AB 400, the Superintendent of Public Instruction would be required, beginning in 2009-10, to incorporate the following indicators into the API of schools serving any grade 9 through 12:

- High school graduation rates, calculated according to current law.
- Rates of "A to G" course completion at a level that meets the requirements for admission to the UC or CSU.
- Rates of career-technical education course completion that provides the skills and knowledge necessary to attain entry-level employment, as specified.

Under the provisions of the bill, testing must constitute at least 60 percent of the API until 2009. Between 2007 and 2014, testing shall constitute at least 50 percent. On or before the 2013-14 fiscal year, the SPI is required to assure that:

- Test results constitute 50 percent of the value of the API.
- The indicators added by this bill, including graduation rates and course completion rates, collectively constitute 50 percent of the value of the API.

AB 400 would authorize the SPI to convene an advisory committee of recognized experts to recommend means of revising the API. The committee shall also develop recommendations for the inclusion of multiple measures in the APIs of middle and junior high schools.

Finally, the bill repeals the requirement to include student attendance rates in the API.

SB 219 (Steinberg). This bill would, by July 1, 2011, require the API for a school and its districts to:

- Include all test scores and accountability data of pupils enrolled in alternative education programs, if that school is the school of residence for the pupil (and unless the pupil has been referred to the program by a juvenile court judge/correctional office or is under a mandated expulsion order).
- Include drop out rates for pupils who drop out of eighth or ninth grade. If reliable data is not available by July 1, 2011, the bill requires the Superintendent of Public Instruction (SPI) to report to the Legislature on reasons for the delay, and on the anticipated date of availability and inclusion of these data in the API.

The bill also would require the API advisory committee to make a recommendation to the SPI and the State Board of Education on the length of time for which the accountability data on pupils in alternative programs shall be assigned to the school and school district of residence.

2007 Back-to-School Conferences
Top Ten Education Issues
Page 8

These provisions would become operative only if local education agencies receive a per pupil allocation prior to the 2010-11 fiscal year for implementation of the California Longitudinal Pupil Achievement Data System.

Lawsuit Over Highly Qualified Teachers

A coalition consisting of Californians for Justice, the California Association of Community Organizations for Reform Now (ACORN), and several individual students and parents have filed suit (*Renee v. Spellings*) in federal district court against the U.S. Department of Education. They are represented by Public Advocates Inc., a public interest law firm and advocacy group based in San Francisco, and Goodwin Procter LLP, a national law firm.

At issue are regulations guiding states in implementing NCLB. The text of the NCLB Act defines as “highly qualified” a teacher who has a full state credential. The Department’s regulation also defines as “highly qualified” teachers who are still “participating in an alternative route to certification.” The plaintiffs are asking the court to declare the Department of Education’s regulation containing this definition of “highly qualified teacher” void and instead use the definition that Congress provided in the NCLB statute itself.

SARC Lawsuit

Public Advocates Inc. is also leading a lawsuit against the Oakland Unified School District for “failing to disclose to the public legally required data, including per-pupil spending figures, for each school through the School Accountability Report Card (SARC).

Eight other school districts have been warned by Public Advocates of possible legal action if “they fail to comply with their SARC obligations at the beginning of the upcoming school year.” Those districts are as follows:

- Alameda City Unified School District
- Alisal Union Elementary School District
- Chula Vista Elementary School District
- Coachella Valley Unified School District
- Fresno Unified School District
- Hayward Unified School District
- Inglewood Unified School District
- Pajaro Valley Unified School District

Assembly Bill 1403: Defending Local School Governance

CSBA expended much time and effort this year to defeat Assembly Bill 1403 (Arambula), legislation to establish the *Central Valley District Improvement Pilot Program*. Under the provisions of the bill, the county superintendent of schools in specified San Joaquin Valley counties would have been authorized to participate in a pilot program related to assessing, monitoring, and improving the academic achievement of those school districts, and the schools and pupils in those districts.

As introduced, AB 1403 targeted eight counties: Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare. (In a subsequent amendment, this was reduced to Fresno and Tulare counties). The pilot program would have allowed each county superintendent in the targeted counties to assume additional responsibilities for overseeing the academic success of school districts in their jurisdictions that were:

- Identified for Program Improvement or corrective action under NCLB; and
- Had 50 percent or more of their schools ranked in deciles 1 and 2 of the state Academic Performance Index.

Participation in this program would have been *voluntary* on behalf of the county superintendents; however, the school districts within that county would have been *required* to participate if selected by the county superintendent.

In presenting his bill to the Legislature, Assembly Member Arambula stated that improving academic achievement is the first step in revitalizing and invigorating the economy of the Central Valley, and that his bill was an attempt to address the issue of including districts *and* county offices of education in the process for addressing low performance. It was the author's hope that AB 1403 would permit struggling school districts to dramatically improve student learning by providing more flexibility over spending, and relief from unnecessary obstacles and extra paperwork the state's complex Education Code and excessive regulations create. In this argument, supporters cited the findings of the "Getting Down to Facts" research project, which argued that top-down regulations and the complexity of those restrictions act as an impediment to progress in schools.

While the categorical flexibility and waiver authority provided in this measure could have helped some schools, CSBA was very concerned that AB 1403 established yet another layer of oversight on schools and school districts. Under the provisions of the bill, county superintendents would have replaced the Superintendent of Public Instruction (SPI) in overseeing certain school districts. However, ultimately, the SPI and the State Board of Education must remain in an oversight capacity for these districts, as state law cannot supersede federal law and requirements as specified under the No Child Left Behind Act.

CSBA was also concerned that since the state annually invests billions of dollars of the state budget in the support of low-performing schools, it would be an abdication of the state's fiduciary responsibility to remove itself from its oversight role with respect to the performance of schools, school districts and students.

In addition, AB 1403 would have generated significant mandates for those school districts in the program. For the county superintendent, because the program was voluntary, there would have been no mandated costs. However, because the local school districts would have been required to participate, any additional reporting and staffing costs to meet the provisions of the bill would have constituted a state mandate. Many of the districts that were singled out to participate in this program are struggling, both academically and financially. Placing additional mandates on districts that are already financially stretched would not have improved their ability to succeed.

It was the author's belief that AB 1403 would encourage collaboration between school districts and the county superintendent to improve student achievement. However, as written, AB 1403 did not establish a collaborative relationship, especially since one party (the school district) was *mandated* to participate in the program and the other party (the county superintendent) *chose* to participate. This type of decision making process does *not* encourage or result in collaboration.

In large part due to CSBA's advocacy efforts on this issue, AB 1403 was held in the Senate Appropriations Committee, killing the bill for the year.

5. Special Education

AYP Calculation for Special Education Students. The U.S. Department of Education allowed California to utilize, beginning with the 2005 testing cycle, an interim method of calculating proficiency for special education students until such time that the modified achievement assessment was completed (see below). The interim method applied only to those schools and districts that would be identified as failing AYP solely for the performance of their special education student population. The calculation allowed those schools and districts to increase their proficiency levels for special education students by 20 points. This will no longer be allowed, with the likely result being additional schools and districts being identified for Program Improvement.

California Modified Assessment. The California Modified Assessment, part of the STAR program, is an assessment based on modified achievement standards. The assessment will be operational in Spring of 2008 for grades 2-5. Test items for additional grades are currently being developed.

Federal Regulations released on April 9, 2007, state that “there is a small group of students whose disability has precluded them from achieving grade-level proficiency and whose progress is such that they will not reach grade-level achievement standards in the same time frame as other students. Currently, these students must take either a grade-level assessment or an alternate assessment based on alternate academic achievement standards. Neither of these options provides an accurate assessment of what these students know and can do. A grade-level assessment is too difficult and, therefore, does not provide data about a student's abilities or information that would be helpful to guide instruction. An alternate assessment based on alternate academic achievement standards is too easy and is not intended to assess a student's achievement across the full range of grade-level content. Such an assessment, therefore would not provide teachers and parents with information to help these students progress toward grade-level achievement.”

The regulations further state that “modified academic achievement standards are challenging for eligible students, but are a less rigorous expectation of mastery of grade-level academic content standards. Notably, modified academic achievement standards must be based on a State's grade-level academic content standards for the grade in which an eligible student with disabilities is enrolled. In other words, a State's academic content standards are not what are modified. The expectations for whether a student has mastered those standards, however, may be less difficult than grade-level academic achievement standards.”

The regulations also require that “IEPs include goals that are based on grade-level content standards and provide for monitoring of the students' progress in achieving those goals.” These students are “not precluded from attempting to complete the requirements, as defined by the State, for a regular high school diploma.”

6. Politics and the 2008 Elections

The voters of California, having just recovered from the last round of statewide election fever (5 statewide elections in 5 years), heads into 2008 facing the prospect of three statewide elections: the Presidential Primary election in February, the traditional Primary Election in June, and the General Election in November. Among the issues at the forefront of this political maelstrom are the following:

Term Limits. Appearing on the February ballot, this initiative would reduce the total amount of time a person could serve in the state Legislature from 14 years to 12 years, and allow a person to serve a total of 12 years either in the Assembly, the Senate, or a combination of both. The initiative's most controversial provision, and one which has resulted in strong opposition from some quarters, is the provision which would create a transition period during which current legislators could serve a total of 12 consecutive years in the house in which they are currently serving, regardless of any prior service in another house. Among other impacts, this provision would allow Senate President Pro Tem Don Perata and Assembly Speaker Fabian Núñez, both Democrats, to serve additional terms in their respective houses.

Reapportionment. For months, it had been assumed by Capitol observers that a reapportionment initiative would accompany the term limits initiative on the ballot, and that without reapportionment reform, any effort to modify term limits was “dead on arrival” with the voters. However, neither of the major reapportionment bills pending in the Legislature advanced to the Governor prior to the close of session, making it highly unlikely that any initiative on the topic will appear on the February ballot.

Pension and Benefit Reform. This issue may also play a role in one of the 2008 elections. In January, Governor Schwarzenegger issued an Executive Order to establish the Public Post-employment Benefits Commission, to examine the issue of unfunded liabilities incurred by public agencies for post-retirement health benefits. The Commission was charged with two goals:

- Determine the amount of unfunded liability in state and local pensions and other post-employment benefits; and
- Make recommendations to the Legislature regarding possible actions the state can take to deal with that liability.

The Commission has held several hearings this year. At a hearing in July, former Assembly Member Keith Richman created political tension for the Commission in proposing a ballot initiative that would require all new

public employees – except for safety employees such as police or firefighters – to work until they reach the age of 65 or 67 before they could receive full pension and health benefits. Union leaders vowed to fight this measure.

At the same hearing, Commission Chairman Gerald Parsky (a member of the University of California Board of Regents) stated that proposed voter initiatives on subjects related to retiree benefits would not influence the work of the Commission. However, the submission of the Richman initiative has created some anxiety among those watching the Commission's activities, and the Chairman felt compelled to provide the Commission's perspective.

7. Health/School Wellness Issues

CSBA Student Wellness Initiatives

School Wellness Conference. CSBA's student wellness initiatives continued to enjoy great success during the past year. These efforts led to the development of the inaugural School Wellness Conference, sponsored by CSBA in partnership with the California Department of Education (CDE) and the California Department of Health Services (CDHS). The two-day conference, to be held in Anaheim October 1-2, will highlight two critical components of school wellness: the school nutrition environment and physical education/activity. The conference will also highlight best practices and resources for school district personnel who are looking for assistance to address these issues within the greater context of their school wellness programs.

The conference is designed for district leaders and others in the school community who have a desire to improve nutrition and physical education and activity on school campuses. CSBA anticipates that participants will include school board members, superintendents, principals, school nurses, food service personnel, physical education and general education teachers, parents, students, community health advocates, nutritionists, and local public health officials.

The goals of the conference include:

- Stimulating involvement of the entire school community to model healthy behaviors, provide quality nutrition programs and support district-wide policies that promote the development of healthy eating habits on school campuses.
- Strengthening the connection between nutrition, physical education and physical activity as core components of all school wellness programs so that district leaders provide ample time and consideration to these areas in their school communities.
- Highlighting the resources needed to implement, monitor and evaluate adopted school wellness policies and share strategies proven successful in improving the school nutrition environment; and enhancing physical education/activity programs or other opportunities promoting physical activity.

The conference will highlight the key link between student wellness and student achievement, and provide a tangible, easy-to-understand model of how a district can change practices, expectations, and results via the adoption of appropriate policies. This concept will also be addressed during a CSBA presentation to be offered at Superintendent of Public Instruction Jack O'Connell's upcoming Achievement Gap Summit, titled "*Student Wellness: Working to Close the Achievement Gap by Improving Student Health.*"

Healthy Communities/Healthy Students. CSBA is seeking a grant through the Vitamin Cases Settlement Fund in the amount of \$300,000 over three years. This funding would allow CSBA, together with the Cities, Counties and Schools Partnership, to provide school board members with the knowledge, resources and tools needed to garner community support for the changes being made to create a healthy school environment and to help them initiate collaborative solutions designed to affect changes that result in a healthier community.

To create and sustain healthier communities, school governance leaders are well positioned to seek out and talk with other locally elected officials about childhood obesity, its link to learning, what the schools are doing

and to raise the communities' awareness level of the costs associated with and the dangers posed by obesity. They are also uniquely positioned to work with other locally elected officials to find common ground and collaboratively work toward developing and implementing strategies that address childhood obesity. The Healthy Communities/Healthy Students initiative will encourage and support this work by: researching, developing and distributing a resource guide to school board members; providing trainings for school governance leaders and other locally elected officials utilizing the resource guide and focusing on issues of childhood obesity and how schools and communities can work together to create collaborative solutions; and providing technical assistance to school governance leaders as they attempt to forge collaborative solutions to address childhood obesity.

Issues at the State Level

Special Legislative Session. On September 11, Governor Schwarzenegger called the Legislature into special session to work on health care issues. Specifically, the Governor called upon the Legislature to achieve the following:

- To consider and act upon legislation to comprehensively reform California's health care system that relies on shared financing and contributions from individuals, employers, health providers, federal, state and local government, and others;
- To consider and act upon legislation that will provide for health care coverage for all Californians and access to health insurance without regard to medical history;
- To consider and act upon legislation to make health care more affordable by: (a) reducing the cost to employers and insured individuals associated with uncompensated health care services delivered to the uninsured and low Medi-Cal reimbursement rates, (b) preventing chronic diseases, and (c) promoting more cost effective health care delivery; and
- To consider and act upon legislation to modify or extend existing programs to provide for a transition to comprehensive health care reform.

School Based Health Clinics. The Education Coalition (which includes CSBA, ACSA, CTA, the California State PTA, CCSESA and others) supports the development and operation of school-based health clinics as part of a comprehensive approach to addressing the health care needs of California's students. The Coalition has issued a position paper which states that state policy with regard to school-based health clinics must reflect the following key principles:

- Location of a health care clinic on a school site is contingent on approval by the locally elected governing board of the school district.
- The facilities for school-based health clinics must not displace space needed for the educational purposes of schools, nor count against future eligibility of the school for needed facilities.
- Health care is outside the core mission of the public schools. The state must not require the use of Proposition 98 funds for school-based health clinics.
- Privacy issues related to health care services on school grounds must be identified and resolved to protect the rights of both children and school staff.

Diabetes. On August 8, the California Department of Education announced a settlement with Plaintiffs in litigation concerning the delivery of care to students with diabetes who need insulin during the school day. The settlement impacts school districts and County Offices of Education statewide.

The class action lawsuit was initiated by the American Diabetes Association and the Disability Rights Education and Defense Fund in 2005. The lawsuit was filed on behalf of parents of students in two Bay Area school districts who alleged a violation of state and federal law because of the districts' alleged refusal to provide

trained personnel to help monitor their child's glucose levels and to assist with administering insulin. The settlement affects students who have been identified as "disabled" under Section 504 of the IDEA. As part of the settlement agreement, the CDE has issued a legal advisory providing guidance to districts outlining the rights of these students.

Given the unfortunate shortage of school nurses statewide, a significant issue for districts has been the question of which staff can administer insulin when a school nurse is not otherwise available. According to the CDE's legal advisory, appropriately licensed employees, contracted registered nurses, the student, parent/guardian or other individual designated by the parent/guardian may administer insulin during the school day. When such persons are not otherwise available, then federal law authorizes the district to train voluntary, unlicensed school employees (i.e., without a medical license) to administer insulin in accordance with the student's IEP or 504 plan. Districts must ensure that such unlicensed personnel are appropriately trained and supervised. Neither the law nor the settlement specify what type of training is appropriate for unlicensed personnel. Because the law is unclear regarding appropriate training, districts should consult with legal counsel and the district's risk manager in order to ensure that appropriate protections are in place.

CSBA's Governance and Policy Services department will issue a policy advisory, outlining the policy considerations for governance teams, as well as revised sample policies and administrative regulations. These documents will be available to districts that subscribe to one of CSBA's policy services.

8. Charter School Issues

During 2007, CSBA and its Education Legal Alliance worked diligently to address three critical issues pertaining to charter schools.

Proposition 39 Regulations

In 2002, the State Board of Education (SBE) adopted regulations implementing the facilities requirements of Proposition 39. The SBE proposed adopting regulations requiring binding arbitration to resolve facilities disputes between charter schools and districts. This proposal was adopted by the SBE, but later rejected as unauthorized. Since the passage of Proposition 39, there have been four court decisions relating to charter school facilities issues. CSBA and the Alliance learned of an effort by charter school interests and the California Department of Education (CDE) staff to develop proposed revisions to the existing regulations to incorporate the court decisions and to revisit the dispute resolution procedure. CSBA participated in informal discussions around this issue.

Many of CSBA's initial concerns and objections were heeded by the CDE and a more acceptable proposal was presented to the SBE. There were, however, still concerns and objections with the dispute resolution process and other proposals that are beyond the regulatory authority of the SBE. The SBE began the formal rule-making process in January 2007, and CSBA and the Alliance filed a formal letter challenging several of the proposed regulations.

The SBE adopted the proposed regulations at its May meeting. Of particular concern was the proposed limited timeline for districts to review and process charter schools' facilities requests, which would create a hardship for districts with limited staff, especially when processing multiple requests for facilities. Concerns also focused on provisions limiting districts' ability to move "conversion" charters (public schools that are transformed into charters) from one facility to another. These new regulations will especially constrain districts that must close schools and reconfigure facilities to deal with declining enrollment.

After the Department of Finance determined the fiscal impact of the proposed regulations, they were submitted to the Office of Administrative Law (OAL) for a determination of legal validity. It has recently been learned that the regulations have been sent back to SBE for further modification, an indication that CSBA's efforts have had a favorable impact.

Statewide Benefit Charter Schools

Over the last year, CSBA has been increasingly concerned about the SBE's process for granting statewide benefit charters. AB 1994 (Chapter 1058, Statutes of 2002) added Education Code section 47605.8 providing for the creation of statewide benefit charter schools, which are able to bypass the geographical limitations on charter schools and operate at multiple sites throughout the state. The charter petition comes directly to the SBE and may be granted only when the SBE makes a finding that the charter will provide a statewide benefit and that the services cannot be provided by a charter operating in only one district or county.

It is the opinion of CSBA and the Alliance that the SBE is acting contrary to law by approving statewide benefit charters without first considering whether the charters could be accommodated by a local district or county office of education, and without finding any unique circumstances that would justify whether or not the charter is of statewide benefit. It appears that the charters are bypassing the local districts in an attempt to avoid local oversight and moving straight to the SBE, where they are likely to receive a favorable reception.

The Legislature agrees that the SBE is misinterpreting the intent of AB 1994 and, in January, the legislative leadership wrote a letter asking them to cease from granting more statewide benefit charters until the Legislature could adopt legislation to clarify the process. The SBE ignored the leadership's request and granted a petition by Aspire Charter School at its March meeting. In response to the SBE's actions at the March meeting, CSBA, ACSA, and CTA sent a letter to the SBE asking them to rescind its actions for its failure to make the appropriate findings required by law.

Because it is unlikely that the SBE will reverse its direction on statewide benefit charters, the Alliance is prepared to file litigation against the SBE, with the expectation that CTA and ACSA would join the suit. A legislative solution is also being explored at this time, and there may be additional details to report following the close of this year's session in mid-September.

Conflict of Interest Regulations for Charter Schools

In June, the SBE proposed regulations that would establish new conflict of interest policies – separate from the existing conflict of interest statutes which govern public schools – for charter schools that are governed by entities other than school district or county office of education governing boards.

In its Initial Statement of Reasons, the SBE stated that some charter schools have created secondary for-profit and non-profit organizations to provide programmatic and management services, and that other charter schools operate outside the bounds of both for-profit and non-profit corporations. Further, the Board noted that some charter schools' governing board members and executives are also principals of contracting organizations.

CSBA has objected strongly to these proposed regulations. Among the provisions of concern are the following:

- The regulations would allow transactions between the charter school board and any other entity, even if one or more of the charter school board members are also board members of the other entity, if full disclosure is made. Further, they would allow self-dealing between entities if disclosure is made. Under Section 1090 of the Government Code, which governs public schools, such contracts would be void.
- Proposed Section 11961.5 of the regulations would allow interested charter school board members to vote or participate in making decisions where they have a conflict of interest, if the charter school entered into the transaction for its own benefit or the transaction was "fair and reasonable" as to the charter school at the time the charter school entered into the transaction.
- The regulations would allow teachers or employees on the charter school board to approve salary increases if the salary increase would be for a class of persons and not specifically for them personally. Further, they would allow interested charter school board members to participate and vote on decisions if the decisions are in "good faith and without favoritism."

- Proposed Section 11961.2 of the regulations would authorize a minority of the charter school board (2 of 5, or 3 of 7 charter school board members) to be financially interested persons, in violation of the Government Code sections which pertain to public schools.
- The regulations would allow employees and independent contractors to serve on the charter school board so long as they did not constitute a majority of the charter school board, and also allow family members of those employees and contractors to serve on the charter school board, so long as they did not constitute a majority of the board.
- The regulations state that if a board member acts in good faith in a manner that a charter school board member believes to be in the best interest of the charter school, and with such care, as an ordinarily prudent person in a similar position would use under similar circumstances, there is no conflict of interest.

The proposed regulations have been deferred until the November meeting of the SBE. CSBA will continue to oppose their adoption.

9. Declining Enrollment

Declining enrollment has continued to become an increasing problem for districts in California. Statewide, the rate of decline in 2007-08 was 0.48 percent, which represented the third year of statewide decline. Loss of ADA is expected to continue for the next 2-3 years, followed by several more years of very slow growth. In districts impacted by declining enrollment, the average decline is 3% per year. This problem, unfortunately, has been exacerbated by the growth in charter school attendance.

CSBA-sponsored legislative efforts that would have provided to relief to districts were stalled this year, due to the state's current fiscal situation. **AB 366 (Wolk)** would have allowed districts with declining enrollment for three or more years to claim 25 percent of the difference in their ADA over those three years; **AB 835 (Krekorian)** would have allowed school districts to claim the greater of the current or prior year ADA, providing districts with declining enrollment much-needed time to adjust to the loss of students.

State budget projections for next year are pessimistic, and it is important for school board members to ensure that their legislators understand the impact of declining enrollment on the school districts located in their legislative districts. It is important for legislators to understand that:

- Revenues decline much faster than districts are able to reduce costs;
- Some fixed costs remain the same no matter how many students leave the district such as utilities, facilities and maintenance; and
- Reductions in staff often impact the least senior teachers; resulting in an increase in per-student operational costs.

10. High School Exit Exam

Three bills that would impact the High School Exit Exam were approved by the Legislature, and now await action by Governor Schwarzenegger.

Sponsored by CSBA, **Assembly Bill 1379 (Brownley)** would identify alternative criteria and measures by which high school pupils who are regarded as proficient but unable to pass the high school exit examination may demonstrate their competence and receive a high school diploma.

The alternative criteria would include, but not be limited to, the following:

- Exemplary academic record, as evidenced by transcripts;
- Alternative assessments, including local and state tests of equal rigor; and

- Portfolios of finished coursework or other learning projects.

Senate Bill 123 (Romero) would provide eligible pupils with disabilities who have fulfilled all of the requirements for a high school diploma, except passage of the California High School Exit Exam (CAHSEE), the opportunity to receive a diploma by demonstrating through a standardized evidence-based assessment that they have acquired the same knowledge and skills necessary to pass the CAHSEE.

Assembly Bill 347 (Nava) would implement a proposed settlement agreement in the *Valenzuela v. O'Connell* lawsuit by placing conditions on the receipt of funding that requires school districts to provide intensive instruction and services to pupils who have not passed the high school exit examination by the end of twelfth grade.

A lawsuit filed by plaintiffs (*Valenzuela v. O'Connell*) contends that pupils that have otherwise met graduation requirements but have not received a diploma due to a failure to pass one or both portions of the CAHSEE have been disadvantaged by an unequal education system that did not adequately teach the materials on the exam. While the suit has not halted the implementation of the CAHSEE as a graduation requirement, the Court of Appeals has recommended that the parties agree to a means of providing equal access and adequate remedial assistance to students that have not passed the exam.

As a condition of receipt of supplemental instruction funds, AB 347 would require districts to offer remedial services to pupils who have not met the requirement to pass the CAHSEE and who have failed one or both parts of the exam by the end of the 12th grade. This bill also would require districts to:

- Post notices in 10th, 11th, and 12th grade classrooms of pupil eligibility for CAHSEE remedial services beyond 12th grade;
- Notify, in writing, pupils that have completed 12th grade but have not passed both portions of the CAHSEE of their eligibility of remedial services and of their right to file a complaint;
- Provide English learners who have not passed one or both portions of the CAHSEE by the end of 12th grade with notice of their eligibility for English proficiency instruction; and
- Employ strategies for remedial services that are specifically tailored toward the CAHSEE.

Finally, districts participating in the Middle and High School Supplemental Counseling program would be required to provide information to pupils about their eligibility for services beyond the 12th grade if they have not passed the CAHSEE by that time.

This bill is double-joined (meaning that both would have to be signed by the Governor in order for the provisions of either to go into effect) with *SB 405 (Steinberg)*, which would expand the requirements of the Middle and High School Supplemental Counseling program to include a review of a pupil's career goals and the availability of academic and Career Technical Education (CTE) opportunities, and to provide pupils and their parents information on eligibility for admission to a four-year institution of postsecondary education.