



Legislation and policy update

Race to the Top enabling legislation: Implications for all school districts and county offices of education

An update on statutory provisions that apply whether California receives a Race to the Top grant or whether the LEA signed a Race to the Top MOU with the state.

Overview

In an effort to make California eligible and competitive for the federal Race to the Top grant program, a series of bills were introduced by the Legislature.

These bills are now California law and many have significant implications and rapid implementation deadlines for all school districts and county offices of education, regardless of whether California is awarded an RTTT grant, or whether the LEA signed an RTTT memorandum of understanding with the state.

Notice of a grant award is expected in April 2010 with funding to grantees flowing this fall.

This advisory is intended to lay out the basic provisions of the key components of the legislative package:

- **Common core standards**
- **Open Enrollment Act**
- **Parent Empowerment**
- **Turning Around the Lowest-Achieving Schools**

The advisory provides guidance regarding some critical factors that must be considered as school districts examine how to best serve their students in the coming year. CSBA will continue to monitor the implementation of these programs and will revise CSBA sample board policies and administrative regulations as necessary once further guidance is issued and more information becomes available. A question and answer section is available at the end of this update.

Common core standards and assessments

Notwithstanding RTTT funding, it is likely California will consider the adoption of common core (or national) standards and assessments. California is currently working with a consortium of states to develop a set of high-quality common core standards in English language arts and mathematics that ensure rigor and build toward college and career readiness. The Academic Content Standards Commission has been reestablished to develop these standards for California. According to statute and the state RTTT plan, California plans to adopt the standards by the adoption deadline of August 2, 2010. A rapid transition to new standards and assessments is outlined in the state plan.

If the State Board of Education adopts the common core standards by the adoption deadline, the Curriculum Commission will immediately begin the process to create the curriculum frameworks through focus groups, field input and a formal 60-day comment period. Upon the adoption of the frameworks, the SBE will also approve a timeline for the adoption of instructional materials. The commission will invite submissions of materials from publishers and recommend reviewers of potential materials. In July 2012 for mathematics and May 2013 for ELA, the commission will make recommendations to the SBE for the adoption of the new instructional materials. Final print materials will be ready for delivery to LEAs in August 2012 for mathematics and in July 2013 for ELA. LEAs will have a year to pilot these materials before purchasing them.

A list of lists

Each of these new programs includes a different definition for school sites that may be performing below various federal and state performance standards. These lists are expected to be released by the superintendent of public instruction in the coming weeks.

Low-achieving schools—Open Enrollment Act

The 1,000 low-achieving schools, based on API, including the following caveats:

- Each year, the list shall include the same ratio of elementary, middle and high schools as existed in decile 1 in the 2008-09 school year.
- Each local education agency cannot have more than 10 percent of its schools on the list. However, if the number of schools is not evenly divisible by 10, the SPI shall round up to the next whole number of schools. For example, in a school district with a large number of low-achieving sites, only the lowest 10 percent will be on the statewide list.
- Court, community or community day schools will not be included on this list.
- Charter schools will not be included on this list.

Schools eligible for Parent Empowerment

School sites eligible for Parent Empowerment include any school site not identified as a persistently lowest-achieving school (as defined in the state's RTTT plan), a site that is subject to corrective action, continues to not make AYP and has an API of less than 800.

Persistently lowest-achieving school—Turning Around the Lowest-Achieving Schools

The lowest five percent of Title I schools (as well as secondary schools that are eligible, but do not receive Title I funds) in improvement, corrective action or restructuring with the smallest average three-year proficiency rate for English language arts and mathematics using the three previous school years (2006-07, 2007-08 and 2008-09). In addition, high schools that have graduation rates of less than 60 percent in each of the previous three years are also added to this list. Excluded from the list of persistently lowest-achieving schools are schools that have shown at least fifty points of growth in the API over the previous five years, district and county community day schools, juvenile court schools, schools which provide services exclusively to individuals with exceptional needs and, schools not meeting California's established minimum group size for accountability. The SPI and State Board of Education also reserve the right to take a school that would automatically be removed from this list (due to the exclusions above) and include it.

Adoption milestones

	Math	ELA
SBE adopts standards	July 2010	July 2010
SBE adopts frameworks and launches instructional material adoption process	July 2011	Jan. 2012
Professional development	July 2011	Jan. 2012
SBE adopts instructional materials	July 2012	May 2013
Final print materials available for LEAs	Aug. 2012	July 2013

For grades 9-12, California does not have a statewide adoption process for instructional materials. However, the state plans to create a consortium of participating LEAs to conduct a comprehensive review of the grades 9-12 mathematics and ELA instructional materials that are available electronically and a process to help guide districts' purchasing decisions.

Using RTTT funds, the state plans to develop ongoing professional development modules and resources on the new curriculum frameworks and other supplementary instructional materials.

California is also participating in a three multi-state consortia to develop common high quality assessments

aligned to the new common core standards. The state will select the proposal(s) that best fits the new frameworks for aligning standards, assessments, and related curriculum and instructional materials, professional development, and supports for schools.

Implications for governance teams

Local governance teams should monitor the activity of the SBE around the adoption and implementation of the common core standards and assessments. Meeting agendas, minutes and materials are available on the California Department of Education's Web site, <http://www.cde.ca.gov/be/ag/ag/>. Live streaming of meetings is now also available. If adopted, local governance teams may wish to participate in the various stages of the curriculum framework and instructional materials adoption process. To the extent that common core standards differ from California's standards, local governance teams need to begin the planning process for phasing in implementation of new curriculum in their schools. This includes developing a strategy and resources for implementing effective professional development. CSBA will continue to provide updates as new information becomes available.

Open Enrollment Act

The Open Enrollment Act allows any pupil enrolled in one of the 1,000 "low-achieving schools" to enroll in a higher performing school anywhere in the state. Even if California does not receive a RTTT grant, this legislation will still go into effect. It is likely that all school districts and county offices of education will be impacted by the provisions.

Identification of low-achieving schools

The Open Enrollment Act creates a list of the 1,000 "low-achieving schools" in the state. The SPI will identify these school sites annually, beginning in the 2010-11 school year. CSBA anticipates the first list of schools will be available in the next few weeks. The API will be the metric used to determine the list of schools, with the following caveats:

- Each year, the list shall include the same ratio of elementary, middle and high schools as existed in decile 1 in the 2008-09 school year.
- Each LEA cannot not have more than 10 percent of its the schools on the list. However, if the number

of schools is not evenly divisible by 10, the SPI shall round up to the next whole number of schools. For example,

- In a school district with a large number of low-achieving sites, only the lowest 10 percent will be on the statewide list.
 - If a district had a total 138 schools, 10 percent would be 13.8 low-achieving schools. Rounded up to the next whole number, 13.8 becomes 14 schools on the list.
 - In a district with only two (2) low-achieving schools, 10 percent would be 0.2 schools. Rounded up to the next whole number, 0.2 schools becomes one (1) school on the list.
- Court, community, or community day schools will not be included on this list.
 - Charter schools will not be included on this list.¹

Definitions

"School district of residence" is defined in the bill as the school district in which the parent of the pupil resides and in which the pupil would otherwise be required to enroll.

"School district of enrollment" is defined as the school district other than the district in which the parent of the pupil resides, but in which the parent of the pupil intends to enroll under this act.

Parent notification

LEAs that have low-achieving schools must notify parents of their status and include language describing the option to transfer to a higher-achieving school within the district of residence or outside the district of residence. Notification must be issued on the first day of school or, if later, on the date of notice of program improvement, corrective action, or restructuring status, consistent with the requirements of Section 1116(b)(1)(E) of ESEA (20 U.S.C Sec. 6301 et seq.)

Transportation

At this time, it is unclear what responsibilities school districts of residence or enrollment will have regarding transportation. The SBE may include guidance when it adopts emergency regulations.

¹ The authors of the bill implementing the Open Enrollment Act wanted to give parents additional school choice options. However, charter schools are excluded from the list of 1,000 low-achieving schools due to the belief of the authors that if a parent has already enrolled their child in a charter school, they have already exercised parental choice.

Transfer request application process

Beginning in the 2010-11 school year, a parent of a student enrolled in a low-achieving school may apply for enrollment in a specific program or school in any school district effective in the 2011-12 school year. Parents will have to apply for enrollment before January 1 of the preceding school year they wish to enroll their child.² School districts of enrollment must notify parents and the school district of residence in writing within 60 days of receiving a transfer request whether the application has been accepted or denied. Governance teams should be aware that the timelines for this act do not align with existing interdistrict transfer processes.

The law states that a school district of residence may stop the transfer of a single student or a number of students, if the governance team determines that the transfer would negatively impact:

- A court-ordered or voluntary desegregation plan of the district
- The racial and ethnic balance of the district, provided that the policy adopted is pursuant to state and federal law

CSBA highly recommends that school districts consult with their legal counsel if considering using this option to stop the transfer of students out of the district because of possible conflicts with Proposition 209 (1996).

Early 2010	SPI releases list of 1,000 low-achieving schools
Spring/Summer 2010	SBE adopts emergency regulations LEAs develop standards and procedures for acceptance or denial of transfer applications LEAs develop transfer application
Fall 2010 (or start of 2010-11 school year)	Districts with low-achieving schools must notify parents of students attending the identified school Districts intending to enroll students under this act release transfer application Districts of enrollment must accept or reject transfer applications within 60 days of receipt
January 1, 2011	Final day for parents to apply for transfer to school district of enrollment in the 2011-12 school year
Fall 2011	Accepted transfer students enroll in new school district of enrollment

² If the parent, with whom the pupil resides, was relocated by the military within 90 days prior to submitting the application, this deadline does not apply.

Approval and denial of transfer request applications

School districts of enrollment may develop specific written standards for the approval or denial of a transfer application for a specific program and school. CSBA recommends that governance teams seek public input and provide a transparent process as they develop their written standards.

The written standards will include:

- Selection and assignment to programs and school sites through a random and unbiased process.
- Priority for approval: first priority for siblings of children who already attend the desired schools, second priority for students transferring from a PI school ranked in decile 1 on the API. If the number of students who request a particular school exceeds the number of spaces available at that school, a lottery will be conducted in the group priority identified above to select students at random until all of the available spaces are filled.
- Policies for denial if the proposed transfer would require the displacement of any other student who resides within the attendance area of that school or is currently enrolled in that school. However, school districts of enrollment must reply to transfer requests within 60 days of receipt which will make timing challenging for districts to account for students currently enrolled.

The written standards may include:

- Consideration of the capacity of a program, class, grade level, or school building
- A potential adverse financial impact

The written standards cannot include:

- Denial based on a student's previous academic achievement, physical condition, proficiency in the English language, family income, or "disability, gender, nationality, race or ethnicity, religion, sexual orientation" (Education Code 200).

Pupils that are approved for a transfer to a school district of enrollment are deemed to have fulfilled the residency requirements of Education Code Section 48204 and do not need to reapply each year. However, if the district of enrollment is a feeder district to a different unified or high school district, CSBA believes the student must

submit a transfer application to the new district, as they are not residents. This issue may be clarified in SBE regulations.

Graduation requirements

School districts of enrollment must accept credits toward graduation that were awarded by another school district. Schools must allow students to graduate if they meet the graduation requirements of the school district of enrollment.

Funding

Non-basic aid districts of enrollment may claim ADA as soon as the transfer student is enrolled in school. Basic aid districts who enroll students under this act, starting in the second consecutive year of enrollment, will receive seventy percent of the district revenue limit that would have been apportioned to the school district of residence. Title I funding allocations are expected to be adjusted to reflect shifts in district enrollment due to interdistrict transfers.

Documentation

All affected LEAs are encouraged, but not required, to keep records that include the number of requests that were approved, denied or withdrawn and the total number, ethnicity, gender, socioeconomic status, English learners, individuals with exceptional needs and, school of residence for students who transferred in and out of the district.

Implications for governance teams

As soon as possible, governance teams should familiarize themselves with the provisions of this law. In particular, school board members should be aware of the fast-moving deadlines for implementation which do not align with existing interdistrict transfer laws and regulations. The SPI will soon release the statewide list of low-achieving schools and districts should be aware if any of their schools are designated. If school districts have sites on the low-achieving list, they should consider a coordinated media response and parent and community notification strategy, in addition to the formal parent notification requirements in the fall.

In the spring of 2010, the SBE will develop regulations, which will assist school districts during implementation. Once the emergency regulations are adopted, CSBA will release a sample board policy. Governance teams may wish set aside time during upcoming board meetings to develop written standards for the acceptance and denial of transfer applications that adhere to the deadlines and requirements set in statute. It is recommended

that governance teams include public input in the development process. Although the law stipulates transfer students cannot displace the students who reside within the district boundaries, some of the deadlines in this act require the district to act upon transfer application requests before the start of the school year, at a time when many districts typically determine their program, grade level and site capacities.

Turning Around the Lowest-Achieving Schools

Whether or not California is awarded an RTTT grant, participating LEAs with schools identified as “persistently lowest-achieving” will be required to implement one of the four intervention models.

Now defined in statute, persistently lowest-achieving schools include: the lowest five percent of Title I schools (as well as secondary schools that are eligible but do not receive Title I funds) in improvement, corrective action, or restructuring with the smallest average three-year proficiency rate for English language arts and mathematics using the three previous school years (2006-07, 2007-08 and 2008-09). In addition, high schools that have graduation rates³ of less than 60 percent in each of the previous three years are also added to this list. Excluded from the list of persistently lowest-achieving schools are sites that have shown at least fifty points of growth in the API over the previous five years, district and county community day schools, juvenile court schools, schools which provide services exclusively to individuals with exceptional needs and, schools not meeting California’s established minimum group size for accountability. The SPI and SBE also reserve the right to select a school that would automatically be removed from this list (due to the exclusions above) and choose to include it. CSBA anticipates the SPI will release the list of schools in early 2010.

The governance team may select the intervention model, but before making the final decision they must hold at least two public hearings to notify staff, parents and the community regarding the designation and to seek input regarding the option most suitable for the school site.

The four intervention models include:

- **Turnaround**
- **Restart**
- **School closure**
- **Transformation**

A school implementing the turnaround or transformation model may participate in a three-year, school-to-school partnership program by working with a mentor school that has successfully transitioned from a low-achieving school to a higher-achieving school. According to statute, it is solely the site principal’s choice to participate in the school-to-school partnership program.

Implications for governance teams

The SPI is expected to release the list of persistently lowest-achieving schools and local governance teams should find out which of their school sites, if any, appear on this list. As with Parent Empowerment, it is advisable for governance teams to familiarize themselves now with the four intervention models and consider which models may be most appropriate for specific school sites, in anticipation of RTTT and a SIG. As they consider these models, governance teams may wish to consider the strengths, challenges and costs of potential implementation within the district. Governance teams should direct staff to develop an implementation plan for the model they select, with a significant parent and community input process.

Governance teams should be keenly aware of principals’ decisions to participate in the mentor schools program, as there will likely be significant collective bargaining implications for teachers and staff for planning time and site visitation.

Parent Empowerment

The Parent Empowerment Act allows parents and guardians to petition the governing board of a school site to implement any of the RTTT interventions or other federally mandated alternative governance arrangements authorized by No Child Left Behind.⁴

³ As defined in Section 200.19(b) of Title 34 of the Code of Federal regulations.

⁴ Section 1116(b)(8)(B)(v) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) includes Option 1: Close the school and re-open it as a charter, Option 2: Replace all or most of the staff (may include the principal) who are relevant to the failure to make Adequate Yearly Progress (AYP), Option 3: Enter into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the public school, Option 4: Turn operation to the state educational agency (not available in California) and Option 5: Implement any other major restructuring of the school’s governance arrangement. Fundamental reforms might include significant changes in school staffing and governance to improve student achievement and make AYP.

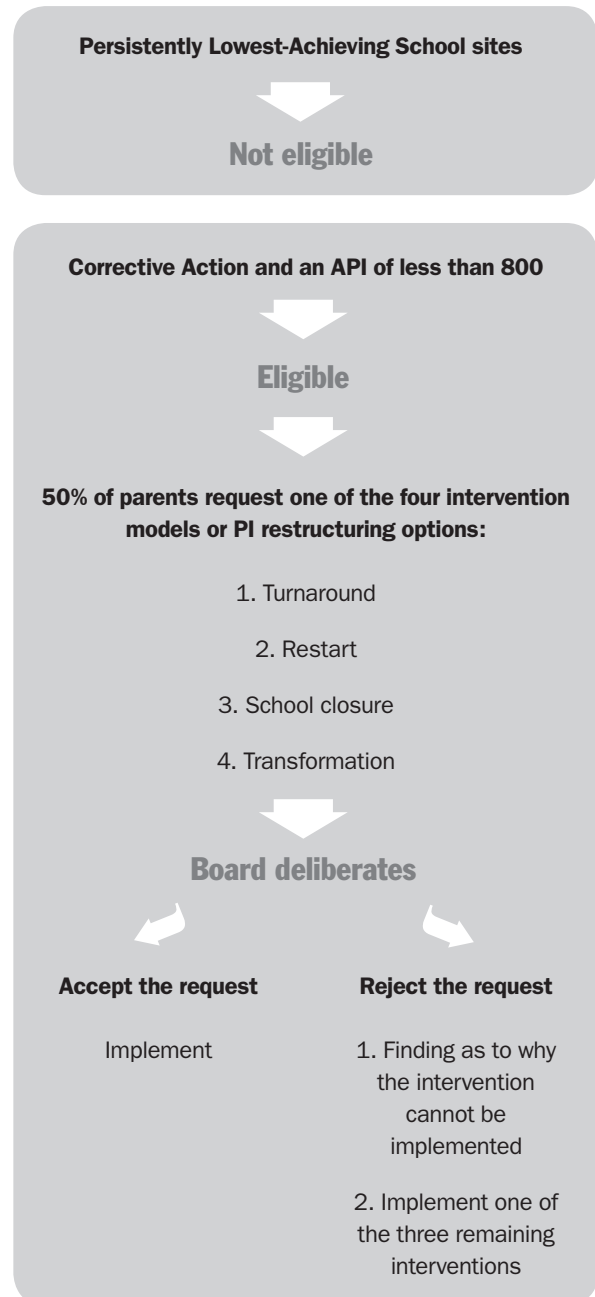
Intervention models

For both Parent Empowerment and Turning Around the Lowest-Achieving Schools, LEAs will be required to implement one of the four intervention models specified in Race to the Top. These include:

- **Turnaround model:** A turnaround model is one in which an LEA must replace the principal and up to 50 percent of the staff and grant the new principal sufficient operational flexibility (including staffing, calendars/time and budgeting) to implement fully a comprehensive approach in order to substantially improve student achievement outcomes and increase high school graduation rates.
- **Restart model:** A restart model is one in which an LEA converts a school or closes and re-opens a school under a charter school operator, a charter management organization or an education management organization that has been selected through a rigorous review process.
- **School closure:** School closure occurs when an LEA closes a school and enrolls the students who attended that school in other schools in the LEA that are higher achieving.
- **Transformation model:** A transformation model is one in which an LEA implements each of the following strategies:
 - Replace the principal who led the school prior to commencement of the transformation model;
 - Use rigorous, transparent and equitable evaluation systems for teachers and principals that include the use of student achievement data;
 - Identify and reward school leaders, teachers and other staff who have increased student achievement and high-school graduation rates and identify and remove those who, after ample opportunities have been provided for them to improve their professional practice, have not done so;
 - Provide staff with ongoing, high-quality, job-embedded professional development that is aligned with the school’s comprehensive instructional program and designed with school staff; and

- Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in a transformation school.

Parent Empowerment



If at least fifty percent of parents and guardians of current and future students that normally matriculate into a particular school site sign a petition requesting the LEA implement one or more of the four intervention models identified in RTTT: turnaround, restart, school closure, transformation, as well as the PI restructuring options. This act is limited to the first 75 schools that notify the SPI and SBE of the LEA's final decision. School sites eligible for Parent Empowerment include any school site not identified as a persistently lowest-achieving school (as defined in the state's RTTT plan), a site that is subject to corrective action and continues to not make AYP and has an API of less than 800. CSBA expects the SPI to release the list of schools eligible for Parent Empowerment in early 2010.

The LEA must implement the intervention model requested by the parents in the petition unless, in a regularly scheduled public hearing, the LEA makes a finding in writing stating the reason it cannot implement the specific recommended intervention model. The LEA then must designate which of the other intervention models it will implement in the following school year. The SPI and SBE must be notified by the LEA if they receive a petition, the intervention model requested by the petitioners and if the LEA chooses to implement a different model than requested in the petition.

This option is limited to the first 75 schools that notify the SPI and State Board of Education of the disposition of the petition by parents.

Implications for governance teams

LEAs will become aware if any of their schools are on the list of Parent Empowerment eligible sites as soon as the SPI releases the information in the spring of 2010. They should be prepared to respond to parent petitions as soon as possible. It is advisable for governance teams to familiarize themselves now with the four intervention models and consider which models may be most appropriate for specific school sites, in anticipation of a Parent Empowerment request. As they consider these models, governance teams may wish to consider the strengths, challenges and costs of potential implementation within the district. Upon the completion of an accepted or rejected petition, governance teams should direct staff to develop an implementation plan for the model, with a significant parent and community input process.

Questions and answers

Under the Open Enrollment Act, do accepted transfer students have to reapply to the district of enrollment every year?

No. Once a student is enrolled, they may remain in the district of enrollment until they complete the highest grade level offered by the district. Pupils that are approved for a transfer to a school district of enrollment are deemed to have fulfilled the residency requirements of Education Code Section 48204 and do not need to reapply each year. However, if the district of enrollment is a feeder district to a different unified or high school district, CSBA believes the student must submit a transfer application to the new district, as they are not residents.

What is the process for appeal if a school district of enrollment denies a transfer request under the Open Enrollment Act?

The statute does not provide an appeals process. The ultimate decision regarding a transfer request will rest either with the school district of residence or the school district of enrollment. A school district of enrollment may deny an application based on their adopted policy and standards related to this act (Education Code 48356).

Under Parent Empowerment, how should LEAs determine parent eligibility to sign a petition?

This legislation is silent on the requirements of parent signatures. For example, if a child has two biological parents and two step parents, are all four parents eligible to sign the petition? May a parent with three children sign the petition three times? In the absence of state regulations, LEAs will need to develop local policies to address this issue and wait to see if the SBE includes parent signatures in with regulations.

If under Parent Empowerment or Turning Around the Lowest-Achieving Schools a charter school is chosen as the intervention model, when does the charter petition process begin?

CSBA believes that in these two cases, the traditional charter petition process does not apply. However, in the absence of this process, the LEA should work collaboratively with the charter operator to develop the elements of the petition and MOU.

Governance teams will still be accountable for these schools and must exercise their oversight and monitoring responsibilities as authorizers. For additional information, please download the CSBA guide “Charter Schools: A Manual for Governance Teams” at <http://csba.org/EducationIssues/EducationIssues/CharterSchools.aspx>

CSBA suggests governance teams, at a minimum, consider:

Petition

- Description of educational program and goals
- Measurable pupil outcomes and method by which pupil progress in meeting those pupil outcomes is to be measured
- Governance structure of the school
- Qualifications to be met by individuals to be employed by the school
- Procedures that the school will follow to ensure the health and safety of pupils and staff
- Means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district
- Admissions requirements, if applicable
- Manner in which annual, independent, financial audits shall be conducted, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority
- Procedures by which pupils can be suspended or expelled
- Manner by which staff members of the charter school will be covered by the State Teachers’ Retirement System (STRS), the Public Employees’ Retirement System (PERS), or federal Social Security
- The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools

- Description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school
- Procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter
- Declaration whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act
- Description of the procedures to be used if the charter school closes

Memorandum of Understanding

- Business plan
- Facilities plan
- Administrative and support services plan
- Special education plan
- Student assessment, access, data reporting plan