



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

TESTIMONY PRESENTED BY CYNTHIA L. RICE, Director of Litigation, Advocacy & Training, before the Regulatory Review Committee, California Department of Education

Re: Proposed Migrant Education Regulations, State Parent Advisory Committee

Date: September 3, 2013, Public Comment Hearing

Good morning, my name is Cynthia Rice. I am from California Rural Legal Assistance (CRLA). CRLA is a statewide legal services provider that has been representing farmworker families, including migrant students and their parents since 1966. CRLA helped draft the California Migrant Education Act, and has represented individual members of the State and Regional migrant parent advisory councils on issues relating to the Migrant Education Program. I am here today to ask Superintendent Torlakson to go back to the drawing board and fulfill his statutory mandate which is to issue regulations regarding the regional advisory committees, and to limit any discretionary regulations to those that promote, rather than inhibit “effective parental involvement” by the State Migrant Parent Advisory Council in developing and implementing the state’s migrant education plan.

Both the federal and state migrant education acts are designed to promote the development of educational programs and interventions that would help migratory students overcome the educational deficits and life challenges they face as migratory children. Both acts were ahead of their time in recognizing the critical importance that parent participation and involvement plays in education and imposed requirements on the state to establish parent advisory councils. Regulations promulgated by the Department must promote the “active involvement” of parents and further the express state mandate that the Superintendent “establish a statewide parent advisory council that shall participate in the planning, operation and evaluation of the state migrant education program. (Educ. Code 54444.2(a)((2))

As demonstrated by the testimony of the SPAC members who previously testified, the proposed regulations do not fulfill these purposes. We will submit more detailed comments about the regulations before the September 24, 2013 deadline for written comments. However at this time we ask the Superintendent to augment the regulatory record to include specific information about costs and other items that should be considered when making any decision about these discretionary regulations.

1. Parents have made a compelling case in these proceedings, and previously, that one day meetings are an extreme hardship, causing dangerous travel conditions, and severely limiting the work the SPAC can effectively accomplish. Previously the SPAC held two day meetings. We request that the Superintendent provide a cost analysis that details the

difference in cost between a one day meeting and a two day meeting, and that detailed information be provided regarding the cost of travel reimbursements for SPAC members, daily food and lodging costs for SPAC members; the daily staff time cost for CDE staff assigned to attend the meetings and the daily meeting space costs.

2. The regulations allow web casting but require audio or video recording of the SPAC meetings. We request that the Superintendent provide a detailed cost analysis breaking down the daily cost for web casting, the daily cost of video recording and providing information about what funds are used to pay for the cost of the web casting and video recordings. We also ask that the Superintendent augment the record to provide information about whether video or audio recording is required for any other advisory council or committee operated or convened by the CDE or any other agency of the State.

3. We ask that the Superintendent provide information, in a confidential manner, about the primary language of the members of the SPAC for the last 5 years. Specifically we ask that the Superintendent provide information in the record about whether there has ever been a time when fewer than 5% of the SPAC members were non-English speaking as that term is used in Govt. Code § 7926.2

We believe that the above information will demonstrate that the Superintendent's proposals regarding the number of meetings do not represent a significant savings of resources, but do impede the ability of the SPAC to participate in the planning, operation and evaluation of the state migrant education program. It will also demonstrate that the required recording of the SPAC meetings will redirect significant funds away from migrant programs without promoting parent involvement or any other purpose of the Migrant Education Acts. Finally, we believe that this information will demonstrate that the CDE has the responsibility to provide language appropriate services to the SPAC, under the letter of the law and the spirit of the Migrant Education Acts, and that the first time imposition of the requirement that interpretation services be affirmatively requested, two weeks in advance of a meeting, serves no legitimate purpose and will frustrate the effective participation of non-English speaking SPAC members.

Rather than prolong this process, based on these flawed regulations, we respectfully request that the Superintendent suspend this regulatory proceeding, withdraw the regulations and initiate new rulemaking. This will allow a thoughtful process, that includes stakeholder participation, prior to the publication of the regulations and result in regulatory proposals that provide a transparent structure for effective regional and statewide parent involvement appropriately supported by CDE staff.

California Department of Education
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Attn: Debra Thacker, Regulations Coordinator
regcomments@cde.ca.gov

Tom Torlakson, Superintendent of Public Instruction
Superintendent@cde.ca.gov

**Comment Regarding Proposed Amendments to California Code of Regulations,
Title 5, regarding the Migrant Education Program Statewide Parent Advisory
Council**

Dear Supt. Torlakson, and Regulations Coordinator:

California Rural Legal Assistance, Inc. (CRLA) and the California Rural Legal Assistance Foundation (CRLAF) submit these preliminary comments regarding the proposed Migrant Education Statewide Parent Advisory Council. These comments will be supplemented by additional written comments and testimony.

CRLA and CRLAF object to and request a modification of the hearing schedule established for public comment. Despite the fact that this is a statewide program and affects thousands of migratory students located in some of the most rural areas of the state, the Superintendent is proposing only one public hearing, in Sacramento. It is scheduled to begin at 9:00 a.m. on a day when most migrant parents will be working. It will be an extreme hardship for parents to travel to the hearing from most of the Regions, and to arrive by 9:00 a.m. will make it necessary for them to begin driving at 3:00 or 4:00 a.m.

Additionally, the original notice of rulemaking, setting the public hearing date, was issued on July 19, 2013, when school was out of session and many migrant parents were working in locations other than in the Regions where they enroll their children in school and have contact with Migrant Education program staff. The timing of the regulatory process, by its very design has the impact of decreasing the ability of parents to effectively participate. Despite the fact that the primary language of nearly all members of the SPAC and the vast majority of migrant parents is Spanish, the notices and proposed regulations were sent out only in English. It was not until August 8th or 9th that the Department made a Spanish language notice and translated copies of the regulations and initial statement of reasons available to the Regions and SPAC members. (See attached email dated August 12, 2013). Although posted on the CDE website, the regulatory notice was not posted or linked to any of the Migrant Education pages where SPAC agendas and other information regarding the Migrant Education Program is generally found.

Notices about the public comment period have been inconsistent and confusing. The original notice provided for a public hearing on September 3, 2013, and set that date as the final date for submission of written comments. Subsequently the written comment period was extended to September 24, 2013. However that notice does not address whether the public hearing is still to be held on September 3, 2013, and there has been some confusion about whether the hearing will be held on that date. (See attached notice). Further confusion was created when the CDE sent a letter to certain members of the SPAC indicating that written comment had to be submitted by September 20, 2013 – not September 24, 2013 as indicated in the new notice. (See attached copy of the letter).

As indicated in the Statement of Reasons accompanying the regulatory notice “California Education Code section 54444.2 requires the State Superintendent of Public Instruction (SSPI) to take necessary steps to ensure effective parental involvement throughout the state’s migrant education programs.” Given this express mandate, migrant parents, including regional and state parent advisory committee members should have participated in the development of the regulations, as provided in Govt. Code § 11346(b).¹

The notice and public comment process has undermined rather than promoted parental involvement.

We request that the public comment period be extended and re-noticed, and that additional hearings be scheduled in the following locations: Fresno, Los Angeles, Bakersfield and San Diego to ensure a meaningful opportunity for parental involvement in areas accessible to parents of the majority of migrant students. We also request that the hearings be held in the evenings or early afternoon to accommodate the work schedules of the testifying parents. At the very least hearings should begin no earlier than 11:00 a.m. to allow for travel time.

CRLA and CRLAF have also been advised that many of the parents who intend to testify at the hearing on September 3, 2013 are Spanish speaking. On their behalf we ask that Spanish language interpretation be provided at the September 3, 2013 hearing, and at any additional hearings scheduled.

We are submitting this letter as public comment and ask that it be included in the regulatory file. We are also asking you, Superintendent Torlakson, to direct CDE staff to withdraw the regulations and initiate stakeholders meetings pursuant to Govt. Code § 11346(b) where the draft regulations can be reviewed, input can be obtained, and the regulations revised prior to formal publication.

Thank you for your consideration of this request.

¹ SPAC members who asked why they had not been given the opportunity to review and comment on draft regulations before they were made public were told that the regulations could not be given out to anyone before they were published. Of course, that is not correct.

Sincerely yours,

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CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

Santiago Avila Gomez
CALIFORNIA RURAL LEGAL ASSISTANCE FOUNDATION

cc. Assemblyman Luis Alejo