

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Child Specific NPA or NPS Certification

# California State Board of EducationJuly 2021 AgendaItem #W-11

## Subject

Request by the **Temecula Valley Unified School District Special Education Local Plan Area** to waive California *Education Code* Section 56366.1(e)(3), the requirement for on-site visits to the nonpublic, nonsectarian school before placement of a pupil if the local educational agency does not have any pupils enrolled at the school at the time of placement, and at least one on-site monitoring visit during each school year to the nonpublic, nonsectarian school at which the local educational agency has a pupil attending and with which it maintains a master contract.

## Waiver Number

3-2-2021

## Type of Action

Action, Consent

## Summary of the Issue(s)

Having submitted a waiver request to the State Board of Education (SBE), the Temecula Valley Unified School District (TVUSD) Special Education Local Plan Area (SELPA) has requested to waive California *Education Code* (*EC*) Section 56366.1(e)(3). Due to the COVID-19 pandemic, the travel and school site visitations required by on-site reviews are contradictory to TVUSD travel policy put in place this school year. Additionally, some nonpublic, nonsectarian schools (NPSs) are currently only providing distance learning, causing some aspects of an on-site review to be better fulfilled through virtual consultations.

The TVUSD has already completed the virtual site reviews of the NPS in which they have students placed and have submitted the requested documentation of their completion of the waiver conditions to the California Department of Education (CDE). The TVUSD is anticipating returning to onsite visits of the NPS for the 2021-22 school year.

**Authority for Waiver**

*California Education Code (EC)* Section 56101

## Recommendation

* Approval: No
* Approval with conditions: Yes
* Denial: No

The CDE recommends approval of this waiver, with conditions, beginning with the date the state-wide shelter-in-place order, March 19, 2020, and ending with June 30, 2021, the end of 2020–21 fiscal year. This recommendation for approval is contingent upon the following conditions:

* The TVUSD SELPA will review each NPS placement through a real-time virtual on-site visit prior to placement of a pupil if the TVUSD SELPA does not have any pupils enrolled in the school, or at least once per school year to any NPS at which the TVUSD SELPA has a pupil attending and with which it has a master contract. Real-time virtual on-site reviews may be utilized if the NPS is offering only distance learning or if there is a local educational agency (LEA) policy in effect during the period of this waiver which prohibits travel to the school site due to COVID-19 related travel restrictions.
* The real-time virtual on-site review, shall include, but is not limited to:
	+ A review of services provided to the pupil through the individual service agreement between the local educational agency and the NPS consistent with the frequency, location, and duration of services as stated in the student’s individualized education program (IEP);
	+ A review of progress the pupil is making toward the goals set forth in the pupil’s IEP, including the behavioral support and/or the behavioral intervention plan as applicable;
	+ A virtual observation of the pupil during instruction; and
	+ A virtual walkthrough of the facility.
* After each real-time virtual on-site visit, the TVUSD SELPA shall provide a written report to the CDE, Special Education Division documenting the findings of the real-time virtual on-site visit within 60 calendar days of the visit.
* This waiver and these conditions apply only to those on-site visits required and conducted by the TVUSD SELPA between April 1, 2020 and June 30, 2021.

## Summary of Key Issues

The TVUSD SELPA is the LEA that contracts with the NPSs. The TVUSD SELPA has master contracts with 13 NPSs for the placement of students with disabilities who are unable to make progress in a public school setting due to their comprehensive, unique needs. The *EC* Section 56366.1(e)(3) requires that the contracting LEA conduct on-site monitoring visits of NPSs annually. During the 2020–21 school year, NPSs, like public schools in Riverside County, are largely providing education through distance learning only. The TVUSD SELPA contracts with 13 NPSs located across Southern California, Texas, Wisconsin, and Utah.

The requested waiver is necessary to facilitate local operations and conduct monitoring visits in a safe manner during the COVID-19 pandemic and related distance learning requirements. The TVUSD SELPA request is to waive the "on-site" component of the NPS monitoring requirement in *EC* Section 56366.1(e)(3). The TVUSD SELPA will continue to monitor NPSs during the COVID-19 pandemic through real-time virtual
on-site reviews and documentation of pupil progress as is outlined in the conditions of the waiver.

The TVUSD has already completed the virtual site reviews of the NPS in which they have students placed and have submitted the requested documentation in the waiver conditions to the California Department of Education (CDE). The TVUSD is anticipating returning to onsite visits of the NPS for the 2021-22 school year.

**Demographic Information:** The TVUSD has a student population of 26,264 and is located in a small city in Riverside County.

## Summary of Previous State Board of Education Discussion and Action

The CDE has not previously received a request to waive *EC* Section 56366.1(e)(3).

## Fiscal Analysis (as appropriate)

The TVUSD SELPA contracts with 13 NPSs located across Southern California, Texas, Wisconsin, and Utah. Conducting virtual consultations will result in savings from the costs of on-site reviews, including travel, lodging, and per diem expenses. However, additional costs may be incurred through the purchase of equipment or staff training, as may be necessary for virtual consultations.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** TVUSD SELPA Specific Waiver Request 3-2-2021 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* Section 56366.1(e)(3)

| Waiver Number | District | Period of Request | District’s Request | CDE Recommended | Local Board Approval | Penalty Without Waiver | Previous Waivers |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 3-2-2021 | Temecula Valley Unified School District (TVUSD) Special Education Local Plan Area (SELPA). | **Requested:**April 1, 2020, to August 15, 2021**Recommended:** March 19, 2020, to June 30, 2021.**Note:** The recommended dates are the date the state-wide shelter-in-place order began, to the end of the 2020-21 fiscal year. | To waive the requirement for on-site visits to NPSs prior to pupil placement and yearly pupil monitoring visits during the COVID-19 pandemic. | Approval with conditions for the period of March 19, 2020 to June 30, 2021. | 1/19/2021 | The TVUSD SELPA would be required to make on-site visits to NPSs prior to placing a student and for yearly pupil monitoring visits during the COVID-19 pandemic. | None. |

Created by California Department of Education: March 2021

# Attachment 2: Temecula Valley Unified School District Special Education Local Plan Area Specific Waiver Request 3-2-2021

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 3375192

Waiver Number: 3-2-2021

Active Year: 2021

Date In: 2/16/2021 11:38:24 AM

Local Education Agency: Temecula Valley Unified

Address: 31350 Rancho Vista Rd.

Temecula, CA 92592

Start: 4/1/2020

End: 8/15/2021

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Special Education Program

Ed Code Title: Notification and Timeline for NPS

Ed Code Section: 56366.1

Ed Code Authority: for General Waivers will be 33050

Ed Code or *CCR* to Waive: *Education Code* Title: Nonpublic School Monitoring

*Education Code* Section 56366.1

*Education Code* Authority – for General Waivers will be 33050

Outcome Rationale: TVUSD SELPA is the LEA that contracts with nonpublic schools. The TVUSD SELPA has master contracts with 13 nonpublic schools for the placement of students who are unable to maintain on a comprehensive campus and make educational progress as well as social emotional progress. Education code 56366.1(e) (3) requires that the contracting LEA conduct on-site monitoring visits of nonpublic schools annually. During the 2020-2021 school year, nonpublic schools, like public schools in Riverside County are largely providing education through distance learning only. TVUSD SELPA contracts with 13 nonpublic schools located across Southern California, Texas, Wisconsin, and Utah.

The requested waiver is necessary to facilitate local operations and conduct monitoring visits in a safe manner during the COVID-19 pandemic and related distance learning. TVUSD SELPA request is to waive the ""onsite"" component of the nonpublic school monitoring requirement, *EC* 56366.1. Nonpublic school monitoring will continue through active monitoring of students during district learning, documentation of pupil progress, engagement logs and virtual facilities tours during the COVID-19 pandemic.

Student Population: 26264

City Type: Small

Local Board Approval Date: 1/19/2021

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Ms. Angel Toner

Position: Coordinator of Behavior Health

E-mail: [atoner@tvusd.us](file:///%5C%5CCDE.Cal%5CDATA%5CSEDATA%5CCENTRAL%5CDirector%27s%20Office%5CState%20Board%20of%20Education%5CWaivers%5CCurrent%20Waiver%20Templates%5Catoner%40tvusd.us)

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