

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of EducationSeptember 2021 AgendaItem #W-03

## Subject

Request by **Chino Valley Unified School District** for a renewal waiver of portions of California *Education Code* Section 48661(a) to permit the collocation of Chino Valley Learning Academy, a community day school, on the same site as an elementary school, a senior high school, and other alternative education programs.

## Waiver Number

* Chino Valley Unified School District 16-6-2021

## Type of Action

Action, Consent

## Summary of the Issue(s)

Request by the Chino Valley Unified School District (CVUSD)for a renewal waiver of portions of California *Education Code* (*EC*) Section 48661(a) to permit collocation of the Chino Valley Learning Academy (CVLA), a community day school (CDS) serving students in grades seven through twelve, with the following schools:

* The Alternative Education Center (AEC) which houses the CVUSD Independent Study (grades nine through twelve), the Home-Based Independent Study (kindergarten through grade twelve), and the Virtual Program (grades nine through twelve).
* The Sycamore Academy of Science and Cultural Arts-Chino Valley (SASCA-CV), a charter school, serving students in transitional kindergarten through grade five.
* The Spectrum Center, a nonpublic, nonsectarian, certified school serving students in grades six through twelve.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

The California Department of Education (CDE) recommends approval of this waiver with the following conditions:

* CVLA students shall be educated fully separately from all of the other students on the shared school site.
* In accordance with *EC* Section 48661(b), the CVUSD shall maintain its certification for the duration of the collocation waiver on the basis of a two-thirds vote of the local governing board that satisfactory alternative facilities are not available for a CDS.

## Summary of Key Issues

*EC* Section 48661(a) states that a CDS shall not be situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation school.

*EC* Section 48661(a)(1) authorizes a small school district with 2,500 or fewer students to waive the separation requirement based on an annual certification by at least two-thirds of the local board when separate alternative facilities are not available.

The CVUSD local board has certified that there is no alternate site or property in the district for the CVLA to operate at a fully separate location. This waiver, if approved, would continue to authorize the CVUSD, with a student population of 27,511, to act similar to a smaller school district per *EC* Section 48661(a)(1).

The CVUSD local board voted unanimously in support of the waiver renewal request. The Associated Chino Teachers supports the waiver through its president, Brenda Walker. The California School Employees Association supports the waiver through its president, Daniel Hernandez. The SASCA-CV supports the waiver through its executive director, Barbara Hale. The Spectrum Center supports the waiver through its vice-president of operations, Melissa Elvidge. The CVLA School Site Council and the AEC Site Council, personnel, and parent attendees, met together to consider the waiver, expressing strong support with no opposing comments.

### Background

In the beginning of the 2011–12 school year, due to lack of available facilities to serve increased student enrollment in the CVLA, the district placed the CVLA at the far south side of the AEC school site. Because the CVLA campus and the AEC campus were separated by fencing and gates, the CVUSD obtained separate addresses for the two school sites. In July 2011 the Spectrum Center, a nonpublic nonsectarian certified school then serving students in grades nine through twelve, entered into a license agreement with the district to use exclusive and shared space at the AEC school site. On March 29, 2019, pursuant to Proposition 39 regulations, the CVUSD offered exclusive and shared space at the AEC school site to the SASCA-CV.

Subsequent to the collocation of several schools, the CVUSD, on the advice of CDE staff, reconsidered their prior opinion that obtaining a separate address for the CDS based on the construction of a fence splitting a long-identified single site constituted it being a truly separate site, per *EC* Section 48661. The CVUSD requested and received a waiver from the State Board of Education (SBE) to authorize the collocation for the 2020–21 school year.

### Safety Measures

The CVUSD has presented a comprehensive plan for maintaining separation and safety for the CVLA and for the other schools and programs sharing the AEC school site.

* The CVLA has its own arrival and departure site and times, parking lot, classrooms, and office. These are all contained within fencing and gates.
* CVLA students moving about the larger AEC campus are escorted by the campus security officer or other CVLA staff.
* Use of common facilities (cafeteria and athletic areas) are scheduled separately for CVLA students.
* In addition to the CVLA counseling assistant, CVLA students have access to many counseling programs and other socio-emotional support services, several of which offer 1:1 services and meet at the AEC school site. These supportive and restorative services address challenges students are facing that might otherwise lead to negative behaviors towards other students and staff.
* Since the CVLA was established at the AEC school site 10 years ago, there have been no major safety issues from incidents with physical violence, weapons, or drugs involving CVLA students.
* All of the collocated schools and programs report that there have been no negative interactions between CVLA students and the other collocated students on the school site.

The CVLA and other schools were operating, due to COVID-19, in limited sized onsite cohorts or full distance learning during many months of the initial waiver, 10-12-2019-W-01, approved on March 11, 2020. This waiver renewal request is designed to allow for a longer period for the CVUSD to extend their safety record under the waiver before the district considers asking the SBE to consider permanent waiver status.

Additionally, the SASCA-CV had intended to relocate to a separate location at the conclusion of the 2020–21 school year, but alerted the CVUSD in April 2021 that the site was still under development, requiring the school to remain in its current location on the collocated campus through December 31, 2021. The planned long term clustering of schools and programs sharing the school site will be presented in a future renewal request.

### Demographic Information:

The CVUSD has a student population of 27,511 students and is located in a suburban region in San Bernardino County.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* Section 33051(a) available on the California Legislative Information web page at:** <http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051>.

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

The SBE has approved several previous waiver requests from school districts requesting authorization to permit a CDS to be collocated with other schools upon a two-thirds vote of the local board when a separate alternative facility for the CDS was not feasible.

## Fiscal Analysis (as appropriate)

There is no statewide fiscal impact of this waiver approval.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Chino Valley Unified School District General Waiver Request 16-6-2021 (2 pages). (Original Waiver request is signed and on file in the Waiver Office.)

## Attachment 1: Summary Table

Portions of California *Education Code (EC)* Section 48661(a)

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Waiver****Number** | **District Name** | **Size of District** | **Period of Request** | **If granted, this waiver will be "permanent"****per *EC* Section 33501(b)** | **Local Board****Approval and Public Hearing Date** | **Bargaining Unit Representatives** | **Advisory Committee****Consulted** |
| 16-6-2021 | Chino Valley Unified School District | 27,511 students9 students in the Chino Valley Learning Academy Community Day School784 students in the Alternative Education Center (25–60 students on campus each day)242 students in the Virtual High School254 students in Independent Study288 students in Home-based Study32 students in the Spectrum Center250 students in the Sycamore Academy of Science and Cultural Arts-Chino Valley, a charter school | **Requested:**July 5, 2021,throughJune 30, 2022**Recommended:**July 5, 2021,throughJune 30, 2022 | No | **Local Board****Approval:**June 17, 20215-0 Vote**Public Hearing:**June 17, 2021 | Associated Chino TeachersBrenda Walker,PresidentJune 4, 2021**Support**California School Employees AssociationDaniel Hernandez,PresidentJune 4, 2021**Support** | Sycamore Academy of Science and Cultural Arts-Chino Valley Executive Director, Barbara HaleSpectrum CenterVice President of Operations, Melissa ElvidgeChino Valley School Site Council and the Alternative Education Center Site Council and personnel and parents combinedMay 27, 2021**Support** |

Created by California Department of Education June 2021

## Attachment 2: Chino Valley Unified School District General Waiver Request 16-6-2021

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 3667678

Waiver Number: 16-6-2021

Active Year: 2021

Date In: 6/23/2021 10:09:23 AM

Local Education Agency: Chino Valley Unified School District

Address: 5130 Riverside Dr.

Chino, CA 91710

Start: 7/5/2021

End: 6/30/2022

Waiver Renewal: Y

Previous Waiver Number: 10-12-2019-W-01

Previous SBE Approval Date: 3/11/2020

Waiver Topic: Community Day Schools (CDS)

Ed Code Title: Colocate Facilities

Ed Code Section: 48661(a)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: *Education Code* Section 48661(a)(1). When the governing board of a school district with 2,500 or fewer units of average daily attendance reported for the most recent second principal apportionment certifies by a two-thirds vote of its membership that satisfactory alternative facilities are not available for a community day school.

Outcome Rationale: Expiration of current collocation waiver on June 30, 2021. Unexpected need for the Sycamore Academy of Science and Cultural Arts – Chino Valley, a charter school, to extend their use of their Proposition 39 allocated space at the Alternative Education Center from July 1, 2021 through December 31, 2021.

Student Population: 27511

City Type: Suburban

Public Hearing Date: 6/17/2021

Public Hearing Advertised: Publication in Inland Valley Daily Bulletin newspaper for 10 days.

Local Board Approval Date: 6/17/2021

Community Council Reviewed By: Alternative Education Campus School Site Council

Community Council Reviewed Date: 5/27/2021

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Mr. Steven Chidester

Position: Attorney

E-mail: s.chidester@californiaschoollaw.net

Telephone: 949-474-5040

Fax:

Bargaining Unit Date: 06/04/2021

Name: Associated Chino Teachers (ACT)

Representative: Brenda Walker

Title: ACT President

Phone: 909-628-0713

Position: Support

Comments:

Bargaining Unit Date: 06/04/2021

Name: California School Employees Association (CSEA)

Representative: Daniel Hernandez

Title: CSEA President

Phone: 909-628-1201 Ext. 1950

Position: Support

Comments: