

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Child Specific NPA or NPS Certification

# California State Board of EducationNovember 2023 AgendaItem #W-11

## Subject

Request by the **Hanford Joint Union High School District and Kings County Special Educational Local Plan Area** to waive California *Education Code* Section 56366(d), the requirement for state certification, to allow the use of federal and state special education funds for the placement of one high school student with disabilities at the Renewed Hope Ranch, an uncertified nonpublic school for students with disabilities in Enoch, Utah.

## Waiver Number

4-7-2023

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Hanford Joint Union High School District (HJUHSD) and Kings County Special Education Local Plan Area (SELPA) are seeking a waiver of the *Education Code* (*EC*) Section 56366(d), the requirement for state certification, to allow the use of federal and state special education funds for the continued placement of one high school student (Student) with disabilities at the Renewed Hope Ranch, an uncertified nonpublic school (NPS) for students with disabilities in Enoch, Utah.

A child specific NPS certification waiver was previously requested and approved for the Student through Waiver 7-10-2022.

The therapeutic program offered by Renewed Hope Ranch was determined by the Student’s individualized education program (IEP) team to be beneficial for the Student at both a therapeutic and academic level.

As stated in the original waiver, over 30 certified and non-certified facilities in California and out-of-state were contacted to place the student. All either declined the application or did not have the services necessary for the student to receive a free and appropriate public education (FAPE).

## Background

Under the federal Individuals with Disabilities Education Act (IDEA), students with disabilities must be offered a FAPE in the least restrictive environment (LRE). Local educational agencies (LEAs) must offer a full continuum of program options to meet the educational and related service needs of students with disabilities. Each student found eligible for special education and related services is provided with an IEP, which is developed between the LEA and the student’s parent(s) or guardian(s), and others as applicable, to decide what types of instruction and related services are needed to meet the student’s needs in the LRE. One of the placement options available along this continuum are NPSs, which are considered separate schools and highly restrictive placement options.

When an LEA is unable to find an appropriate placement for a student with disabilities in a California public school and/or state certified NPS due to the student’s comprehensive, unique needs, the IEP team may deem it necessary for the student to be placed in an uncertified NPS that is able to meet the student’s needs. As members of the IEP team, the student’s parent(s) or guardian(s) must be included in the decision-making process and must provide written consent to the placement.

All private school programs and facilities do not necessarily meet the California NPS certification standards for providing special education and specified related services to individuals with exceptional needs. A waiver of the NPS certification requirements authorizes placing LEAs to enter into a master contract agreement with the private school sites which are not certified as a California NPS, and to use federal and state special education funds to finance the placement.

Upon the receipt of a child specific NPS waiver, the California Department of Education (CDE) ensured the LEA submitted all required documentation and performs a detailed analysis of the documentation. If the waiver request meets all of the waiver requirements, the CDE Special Education Division (SED) will recommend approval of the waiver, along with any appropriate conditions that are specific to the waiver.

## Recommendation

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

The HJUHSD provided the CDE with all required waiver submission documents. The CDE has reviewed these documents and recommends approval of this waiver, with conditions for the time period the Student is placed at the Renewed Hope Ranch, August 17, 2023, through August 17, 2024. This recommendation of approval is contingent upon the following conditions:

* The HJUHSD will consult and coordinate with the Kings County SELPA to review the Student’s placement through an on-site visit to the school at least two times during the period of this waiver. The on-site visits with the school may be accomplished through real-time virtual consultations if there is an LEA policy in effect during the period of this waiver which prohibits travel to the school site due to COVID-related travel restrictions.
	+ After each onsite visit the HJUHSD and Kings County SELPA shall provide written reports to the CDE’s SED that documents the findings of the visit, or consultation. These reports shall include documentation of Student’s academic and behavioral progress, other information supporting the appropriateness of the placement, and details of the onsite review.
* The HJUHSD and Kings County SELPA will consult with the Renewed Hope Ranch liaison monthly to monitor the provision of services and review the Student’s progress using email, phone calls, and/or real-time virtual consultations. The monthly consultation will also include a review of program data. Program data will include the progress on IEP goals, school attendance, work completion rate, grades, active participation in the therapeutic program, and incident/safety reports.
* The HJUHSD and Kings County SELPA will contact the Student and the individual who holds the educational rights of Student, each month, to discuss the Student’s progress and to address any concerns.
* The HJUHSD and Kings County SELPA will schedule IEP meetings, and may participate virtually, if consistent with LEA policies and procedures, at a minimum of every four months to review program data, the Student’s progress, both academically and therapeutically, and determine any necessary changes in the Student’s academic and/or therapeutic program.

If the waiver is approved, the SED will monitor the conditions established by the SBE to ensure the HJUHSD meets the conditions of the waiver.

## Summary of Key Issues

The Student qualifies for Special Education Services under the emotional disturbance disability category. The Renewed Hope Ranch facility has a well-defined positive behavior intervention program to address the needs of the student. The therapeutic program was reviewed and the visiting team agreed the therapy and academics offered by the facility would continue to be beneficial to the Student. Additionally, the District stated the Student will continue to receive individual and group therapy sessions. The number of sessions will increase per week, as well as the addition of family therapy sessions.

The Student has a history of eloping from multiple foster family homes and Short-Term Residential Therapeutic Programs. The Renewed Hope Ranch has a residential facility that will keep the Student safe and secure.

Since the Student’s placement at Renewed Hope Ranch, the HJUHSD stated the Student is succeeding and progressing towards their IEP goals.

**Demographic Information:** The HJUHSD has a student population of 4,056 and is located in a rural area in Kings County.

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

Since the September 2019 SBE meeting, excluding this waiver submission, the SBE has received and approved waivers similar to this waiver allowing LEAs to waive relevant *EC* provisions for using special education funds for the placement of students at sites which have not been certified by the CDE.

## Fiscal Analysis (as appropriate)

If this waiver is approved, the HJUHSD may utilize state and federal special education funds for the placement of this student at Renewed Hope Ranch. If this waiver is denied, the HJUHSD may utilize only local funds to support the Student’s placement at Renewed Hope Ranch. The yearly cost for placement at Renewed Hope Ranch for Student is $200,750.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Hanford Joint Unified High School District Specific Waiver Request Waiver 4-7-2023 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* (*EC*) Section 56366(d)

| Waiver Number | District | Period of Request | District’s Request | CDE Recommendation | Local Board Approval | Penalty Without Waiver | Previous Waivers |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 4-7-2023 | Hanford Joint Unified High School District (HJUHSD) | **Requested:**August 17, 2023, to August 17, 2024**Recommended:** August 17, 2023, to August 17, 2024 | To waive NPS certification to allow the HJUHSD to use state and federal special education funds for the placement of a student in an uncertified NPS | Approval with conditions for the period the student is placed at the uncertified NPS | July 25, 2023 | The HJUHSD may not use state and federal special education funds for the placement of the student at the uncertified NPS | Yes, Waiver 7-10-2022 |

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