

# California State Board of Education Policy # 01-03\* 17-02

Date: Revised April 2001\* and April 2017

## Waiver Guidelines:

Independent Study: Average Daily Attendance-to-Teacher Ratio

## References:

California *Education Code* Section 33050 et seq. (General waiver authority) California *Education Code* Section 51745.6 (Ratio of independent study average daily attendance-to-certificated employees responsible for independent study)

## Historical Notes:

None

**California *Education Code* Section 51745.6 [revised to show current language]**

(a)(1) The ratio of average daily attendance for independent study pupils 18 years of age or less to school district full-time equivalent certificated employees responsible for independent study, calculated as specified by the department, shall not exceed the equivalent ratio of average daily attendance to full-time equivalent certificated employees providing instruction in other educational programs operated by the school district, unless a new higher or lower average daily attendance ratio for all other educational programs offered is negotiated in a collective bargaining agreement or a Memorandum of Understanding (MOU) is entered into that indicates an existing collective bargaining agreement contains an alternative average daily attendance ratio.

(2) The ratio of average daily attendance for independent study pupils 18 years of age or less to county office of education full-time equivalent certificated employees responsible for independent study, to be calculated in a manner prescribed by the department, shall not exceed the equivalent prior year ratio of average daily attendance to full-time equivalent certificated employees for all other educational programs operated by the high school or unified school district with the largest average daily attendance of pupils in that county or the collectively bargained alternative ratio used by that high school or unified school district in the prior year, unless a new higher or lower average daily attendance ratio for all other educational programs offered is negotiated in a collective bargaining agreement or an MOU is entered into that indicates an existing collective bargaining agreement contains an alternative average daily attendance ratio. The computation of the ratios shall be performed annually by the reporting agency at the time of, and in connection with, the second principal apportionment report to the Superintendent.

(b) Only those units of average daily attendance for independent study that reflect a pupil-teacher ratio that does not exceed the ratios described in subdivision (a) shall be eligible for apportionment pursuant to Section 2575, for county offices of education, and Section 42238.05, for school districts. Nothing in this section shall prevent a school district or county office of education from serving additional units of average daily attendance greater than the ratios described in subdivision (a), except that those additional units shall not be funded pursuant to sections 2575 or 42238.05, as applicable. If a school district, charter school, or county office of education has an MOU to provide instruction in coordination with the school district, charter school, or county office of education at which a pupil is enrolled, the ratios that shall apply for purposes of this paragraph are the ratios for the local educational agency (LEA) providing the independent study program to the pupil pursuant to Section 51749.5.

(c) The calculations performed for purposes of this section shall not include either of the following:

1. The average daily attendance generated by special education pupils enrolled in special day classes on a full-time basis, or the teachers of those classes.
2. The average daily attendance or teachers in necessary small schools that are eligible to receive funding pursuant to Article 4 (commencing with Section 42280) of Chapter 7 of Part 24 of Division 3.

(d) The applicable average-daily-attendance-to-certificated-employee ratios described in subdivision (a) may, in a charter school, be calculated by using a fixed average-daily-attendance-to-certificated-employee ratio of 25 to 1, or by using a ratio of less than 25 pupils per certificated employee. A new higher or lower ratio for all other educational programs offered by a charter school may be negotiated in a collective bargaining agreement, or an MOU indicating that an existing collective bargaining agreement contains an alternative average daily attendance ratio may be entered into by a charter school. All charter school pupils, regardless of age, shall be included in the applicable average-daily-attendance-to-certificate-employee ratio calculations.

## Background

The purpose of the average daily attendance (ADA)-to-teacher ratio requirement in state legislation is to ensure the students served through independent study receive access to instruction and support from appropriately certificated staff that is reasonably comparable to other students in the LEA (as used in this Policy, “LEA” also includes charter schools offering independent study for which their authorizing LEA is requesting a waiver) who are served in regular classroom programs. The requirement was enacted specifically to stop perceived abuses where LEAs offered independent study with very high ADA-to-teacher ratios and, as a result, generated revenues to support other educational programs within those agencies.

In the event no collective bargaining unit agreement or MOU exists, a charter school must comply with *EC 51745.6(d).*

## Evaluation Guidelines

The purpose of the waiver request of the entire *EC* Section 51745.6 may be to provide a quality educational program which is "reasonably comparable" to that provided to students within the same LEA who attend regular classrooms. Waivers may also be considered appropriate if the purpose of the higher ADA-to-teacher ratio is to redirect resources to pay for other services for the direct benefit of students in independent study, such as intensive counseling services provided by appropriately credentialed staff.

In order to evaluate any such waiver request, the State Board of Education (SBE) asks that those LEAs applying for such a waiver provide the following documentation. The SBE also asks that California Department of Education professional staff use this documentation in reviewing and making recommendations about the request. The waiver request should include all of the following:

1. Verification that all other requirements of the independent study option in the LEA are in current statutory compliance, in both operation and documentation.
2. Verification of the LEA’s current ADA-to-teacher ratio, as calculated under the current formula in statute (*EC* Section 51745.6).
3. The requested "new" maximum ADA-to-teacher ratio for the LEA's independent study program, including a description of the agency's independent study program and the rationale for the requested ratio. The rationale should explain how the proposed change would improve the quality of education offered to independent study students (e.g., what new or increased services would be provided with the additional revenue claimable through the waiver).
4. If the bargaining unit communicates an opposed position on the recommendation for the waiver, the following will occur: (a) CDE program office staff will contact the bargaining unit representative to determine the basis for the opposition to the waiver; (b) CDE program office staff will consider whether or not the opposition is general or specific to the waiver; (c) CDE program staff will consider the positions of the bargaining unit and the local board and will include a summary of the issues and the basis of the recommendations in the agenda item; and (d) CDE program staff will propose a recommendation to approve or deny the waiver to the SBE.

**In addition, the waiver request must provide assurances that the LEA will meet the following terms as a condition of approval of the waiver:**

1. The waiver request is consistent with the general purpose of the law as described above.
2. The request for a new maximum ADA-to-teacher ratio for the independent study is not greater than 10 percent above the ratio that would be applicable absent the waiver, and this agreed "new maximum ratio" will be maintained throughout the period of the waiver.
3. The LEA will document that all additional monies received through the expanded ratio provided by this waiver were expended in direct support of the independent study instruction.

\* Note that the Policy number 01-03 and Revision Date of April 2001 found on this document contain strikethroughs.

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