



CALIFORNIA STATE BOARD OF EDUCATION

SEPTEMBER 2004 AGENDA

Specific Waiver

<p>SUBJECT</p> <p>Request by Redondo Beach Unified School District to waive <i>Education Code</i> (EC) Section 46202(b), the longer day incentive program penalty for offering less time in the 2002-2003 fiscal year in grades 4 through 6 than what the district offered in 1982-1983 at Jefferson Elementary School (shortfall of 360 minutes).</p> <p>Waiver Number: 6-7-2004</p>	<p><input checked="" type="checkbox"/> Action</p> <p><input type="checkbox"/> Consent</p>
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RECOMMENDATION

Approval Approval with conditions Denial

That the district maintain increased instructional time at Jefferson Elementary School in grades 4 through 6 from the required 54,000 minutes per year to 54,360 minutes per year (54,000 plus the 360 minutes short) for a period of two years beginning in 2003-2004 and continuing through 2004-2005, and report the increase in its yearly audits.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE has approved similar requests with conditions. EC Section 46206 authorizes waivers to be granted for fiscal penalties as a result of a shortfall in instructional time. This section of the *Education Code* is very prescriptive and states that a waiver may only be granted upon the condition that the school or schools in which the minutes, days, or both, were lost, maintain minutes and days of instruction equal to those lost in addition to the amount for twice the number of years that it failed to maintain the required minimum length of time for the instructional school year, minimum number of instructional days for the school year following the year, or both. The instructional time has to be made up beginning not later than the school year following the year in which the waiver was granted and continue for each succeeding school year until the condition is satisfied.

SUMMARY OF KEY ISSUES

The Redondo Beach Unified School District requests a waiver of *Education Code* (EC) Section 46202(b), the longer day instructional time penalty for offering less time that was offered in 1982-1983. The shortage was caused by an unapproved change to Jefferson Elementary School's bell schedule. This change was made without the approvals of the district office resulting in a 360 instructional minute shortfall for the year.

Beginning in school year 2003-2004, the school made up the time by increasing the instructional minutes to the bell schedule and will continue to make up the lost instructional minutes in 2004-2005 (see attached bell schedules). In the future, the school will not make any changes to the bell schedule without prior approval of the

district and school board. The penalty in this case is \$61,774.97.

At the request of the bargaining unit, the district included a letter with their waiver request asking that Jefferson Elementary School not have to continue making up the additional instructional time in 2004-2005. One of the reasons the bargaining union opposes continuing the increase in instructional time is that the current students were not affected by the shortage in 2002-2003. Those fifth and sixth graders are now attending the middle school and will not benefit from the increased instructional time. The other reason for bargaining union opposition is that Jefferson Elementary is a high performing school (API of 902 in 2003) and that the shortage of minutes did not impact student achievement. The department notes that the students who were in 4th grade in the affected year will have received two years of make-up time, and the students in fifth grade will have received one year of make-up if the district followed the proposed conditions.

However, the statute governing the longer day incentive program (EC Section 46201) requires that "school or schools" bring the annual instructional minutes up to the required level and in addition, add the amount of minutes that was lost for two school years in order to get the waiver and not pay the fiscal penalty. In this case, the school has to offer the required 54,000 instructional minutes and then increase that for an additional 360 minutes. The school was short by 360 minutes which when divided by 180 days works out to two additional minutes a day. This additional time would not be difficult to include and could not be considered burdensome. The bargaining unit has agreed to make up the lost time and is negotiating what part of the school day should be increased. This should be completed shortly.

Therefore, the department recommends approval with the condition that the district maintain increased instructional time at Jefferson Elementary School in grades 4 through 6 from the required 54,000 minutes per year to 54,360 minutes per year (54,000 plus the 360 minutes short) for a period of two years beginning in 2003-2004 and continuing through 2004-2005, and report the increase in its yearly audits.

Authority for the Waiver: 46202

Period of request: July 1, 2002 to June 30, 2003

Local board approval date(s): June 22, 2004

Bargaining unit(s) consulted on date(s): June 6, 2004

Name of bargaining unit(s)/representative(s): Kelly McMath, Barbara Barr

Position of bargaining unit(s) (choose only one):

Neutral Support Oppose

Comments (if appropriate): See attached letter from the district that was requested by the bargaining unit to be submitted along with the waiver request.

FISCAL ANALYSIS (AS APPROPRIATE)

The repayment amount required by law is as follows: 1791.51 (Average Daily Attendance) times \$5,172.31 (Budget Revenue Limit) equals \$ 9,266,245.09 (Apportionment). 360 (Number of Minutes Short) divided by 54,000 (Required Number of Minutes) equals 0.00667 (Percentage). \$ 9,266,245.09 times 0.67% (Percentage) equals \$ 61,774.97 (Penalty). The district requests to waive the full penalty.

BACKGROUND INFORMATION

Action Item: Some documentation is available for web viewing. Waiver forms and other hard copy documents are available for viewing at the Waiver Office or State Board Office.