

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of Education May 2021 Agenda Item #W-01

## Subject

Request by the **Lindsay Unified School District** for arenewal waiver of portions of California *Education Code* Section 48661(a), relating to the collocation of the Lindsay Community Day School on the same site as the John J. Cairns Continuation High   
School.

## Waiver Number

* Lindsay Unified School District 15-2-2021

## Type of Action

Action, Consent

## Summary of the Issue(s)

Request by the **Lindsay Unified School District (LUSD)** for a renewal waiver of portions of California *Education Code* (*EC*) Section 48661(a) to permit the Lindsay Community Day School (CDS) to continue to be collocated on the same site as the John J. Cairns Continuation High School.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

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

* The Lindsay CDS students shall be educated fully separately from the John J. Cairns Continuation High School students.
* In accordance with *EC* Section 48661(b), the LUSD shall maintain its certification for the duration of the collocation waiver on the basis of a two-thirds annual vote of the local governing board that satisfactory alternative facilities are not available for a CDS.
* *EC* Section 33051(b) will apply to this renewal waiver request. The LUSD will not need to reapply in order to continue the waiver past the period of request.

## 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 LUSD local board has certified that there is no alternate site or property in the district for the Lindsay CDS or the John J. Cairns Continuation High School to operate at a fully separate location. This renewal waiver, if approved, would continue to authorize the LUSD, with a student population of 4,067, to act similar to a smaller school district per *EC* Section 48661(a)(1).

The Lindsay CDS has been operating on the same site as the John J. Cairns Continuation High School since receiving a State Board of Education (SBE) waiver (13-10-12) in January 2013. Waiver 13-10-12 was approved retroactively for August 1, 2012, through June 30, 2013, and lapsed without being renewed due to oversite on the part of the LUSD.

The LUSD subsequently received another waiver (20-20-2020) in September 2020 for December 19, 2019, through June 30, 2021. The LUSD is now submitting this renewal waiver for July 1, 2021, through June 30, 2025.

The LUSD has confirmed that the following safety measures are in place:

* The two schools are separated by a fence.
* The Lindsay CDS classroom has a student restroom enclosed inside the classroom, which prevents the restrooms from being shared between the schools.
* The start time, break time, lunch time and dismissal times are different for the two schools.
* There are campus monitors overseeing the entire campus to ensure that students of the two schools do not interact.

The LUSD reports that there have been no behavioral or other incidents between the Lindsay CDS students, families, and staff members since the Lindsay CDS was collocated on the same site as the John J. Cairns Continuation High School. This includes before, during, and after school periods for both schools.

The LUSD local board voted unanimously in support of the waiver request. The Lindsay Teachers Association supports the waiver through its representative for alternative education, Erik Gonzales. The California School Employees Association supports the waiver through its representative for alternative education, Francisca Pena. The School Site Council and site staff for the John J. Cairns Continuation High School, and staff for the Lindsay CDS had no objections.

**Demographic Information:**

The LUSD has a student population of 4,067 students and is located in a rural setting in Tulare 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 and programs 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 of Community Day School State Board of Education Waiver (1 page)
* **Attachment 2:** Lindsay Unified School District General Waiver Request   
  15-2-2021 (3 pages). (Original Waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table of Community Day School State Board of Education Waiver

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

| WaiverNumber | District Name,Size of District, andLocal BoardApproval Date | Period of Request | If granted, this waiver will be "permanent"per *EC* Section 33501(b) | Bargaining Unit Name and Representative,Date of Action,and Position | Advisory Committee/Schoolsite Council Name,Date of Reviewand Any Objections |
| --- | --- | --- | --- | --- | --- |
| 15-2-2021 | Lindsay Unified School District  4,067 Students  10 Students in Lindsay Community Day School  69 Students in John J. Cairns Continuation High School  February 22, 2021 | **Requested:**  July 1, 2021,  through  June 30, 2025  **Recommended:**  July 1, 2021,  through  June 30, 2025 | Yes | Lindsay Teachers Association  Erik Gonzales,  Alternative Education Representative  January 28, 2021  **Support**  California School Employees Association  Francisca Pena,  Alternative Education Representative  January 28, 2021  **Support** | School Site Council, site staff for John J. Cairns Continuation High School and staff for Lindsay Community Day School  November 7, 2019  **No Objections** |

Created by California Department of Education March 4, 2021

# Attachment 2: Lindsay Unified School District General Waiver Request 15-2-2021

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 5471993

Waiver Number: 15-2-2021

Active Year: 2021

Date In: 2/23/2021 10:05:56 AM

Local Education Agency: Lindsay Unified

Address: 371 East Hermosa St.

Lindsay, CA 93247

Start: 7/1/2021

End: 6/30/2025

Waiver Renewal: Y

Previous Waiver Number: 20-2-2020

Previous SBE Approval Date: 9/10/2020

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: 48661(a) A community day school shall not be situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation school, except as follows:

(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.

(2) When the governing board of a school district that is organized as a district to serve kindergarten and grades 1 to 8, inclusive, but no higher grades, certifies by a two-thirds vote of its membership that satisfactory alternative facilities are not available for a community day school.

(3) When the governing board of a school district that desires to operate a community day school to serve any of kindergarten and grades 1 to 6, inclusive, but no higher grades, certifies by a two-thirds vote of its membership that satisfactory alternative facilities are not available for a community day school.

(b) A certification made pursuant to this section is valid for not more than one school year and may be renewed by a subsequent two-thirds vote of the governing board.

Outcome Rationale: The Lindsay CDS has been operating on the same site as the John J. Cairns Continuation High School since receiving a State Board of Education (SBE) waiver (13-10-12) in January 2013. Waiver 13-10-12 was approved retroactively for August 1, 2012 through June 30, 2013, and lapsed without being renewed due to oversite on the part of the Lindsay Unified School District (LUSD).

The LUSD subsequently received another waiver (20-20-2020) in September 2020 for December 19, 2019 through June 30, 2021. The LUSD is now submitting this renewal waiver to extend the waiver through June 30, 2025 or make it permanent.

The LUSD has confirmed that the following safety measures are in place:

* The two schools are separated by a fence.
* The Lindsay CDS classroom has a student restroom enclosed inside of the classroom, which prevents the restrooms from being shared between the two schools.
* The start time, break time, lunch time and dismissal times are different for the two schools.
* There are campus monitors overseeing the entire campus to ensure that students of the two schools do not interact.

There have been no behavioral or other incidents between the Lindsay CDS students, families, and staff members since the Lindsay CDS was collocated on the same site as the John J. Cairns Continuation High School. This includes before, during, and after school periods for both schools.

The LUSD, has an enrollment of 4,067 students, and is requesting this waiver to authorize it to act similar to a smaller school district per *EC* Section 48661. The LUSD local board has certified that there continues to be no alternate site or property in the LUSD for the Lindsay CDS or the John J. Cairns Continuation High School to operate at a fully separate location.

The LUSD local board voted unanimously in support of their waiver request. The Lindsay Teachers Association supports the waiver through its representative for alternative education, Erik Gonzalez. The California School Employees Association supports the waiver through its representative for alternative education, Francisca Pena. The School Site Council, site staff for the John J. Cairns Continuation High School, and staff for the Lindsay CDS had no objections.

Student Population: 4067

City Type: Rural

Public Hearing Date: 2/22/2021

Public Hearing Advertised: Notice posted at each school and three other public places

Local Board Approval Date: 2/22/2021

Community Council Reviewed By: School Site Council, site staff for John J. Cairns Continuation High School and staff for Lindsay Community Day

Community Council Reviewed Date: 1/28/2021

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Mr. Grant Schimelpfening

Position: Chief Business Official

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Telephone: 559-562-5111 x5113

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Bargaining Unit Date: 01/28/2021

Name: California School Employees Association (CSEA)

Representative: Francisca Pena

Title: Alt Ed CSEA Representative

Phone: 559-562-5913

Position: Support

Comments:

Bargaining Unit Date: 01/28/2021

Name: Lindsay Teachers Association

Representative: Erik Gonzales

Title: Alt Ed LTA Representative

Phone: 559-562-5913

Position: Support

Comments: