

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of EducationMay 2021 AgendaItem #W-02

## Subject

Request by the **Exeter Unified School District** for a renewal waiver of portions of California *Education Code* Section 48660, to permit the operation of a community day school for students in grades four through twelve, but no grade lower than grade four, and portions of *Education Code* Section 48661(a), to permit the collocation of the Exeter Community Day School on the same site as the Wilson Middle School.

## Waiver Number

* Exeter Unified School District 12-2-2021

## Type of Action

Action, Consent

## Summary of the Issue(s)

Request by the Exeter Unified School District (EUSD) for renewal of its waiver of portions of California *Education Code* (*EC*) Section 48660 to permit the Exeter Community Day School (CDS) to serve students in grades four through six with students in grades seven through twelve, but no grade lower than four. The EUSD is also requesting renewal of its waiver of portions of *EC* Section 48661(a) to permit the Exeter CDS to be collocated on the same site as the Wilson Middle 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 Exeter CDS shall be permitted to serve students in grades four through six with students in grades seven through twelve, but no grade lower than four.
* The EUSD shall provide mentor teacher support for the Exeter CDS educators to support effective teaching for this grade span of students.
* The Exeter CDS students shall be educated fully separately from the Wilson Middle School students.
* In accordance with *EC* Section 48661(b), the EUSD 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 the Exeter CDS.

## Summary of Key Issues

*EC* Section 48916.1(a) requires school districts to ensure that each of their expelled students be provided an educational program during the period of expulsion.

*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(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 EUSD has an enrollment of 2,650 students, and is requesting the waiver to authorize the EUSD to act similar to a smaller school district per *EC* Section 48661(a)(1). The local board of the EUSD has certified that there is no other site or property in the school district to place the Exeter CDS.

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

* The two schools are separated by a fence.
* The Exeter CDS has its own counseling office, administration office, and cafeteria.
* The Exeter CDS students use the Wilson Middle School baseball field outside the gates of the Exeter CDS for physical education classes only when the Wilson Middle School students are not present.
* The Exeter CDS classroom has a student restroom enclosed inside the classroom, which prevents restrooms from being shared between the two schools.
* The start time, break time, lunch time, and dismissal times are different for the two schools.
* The two schools have separate entrances that are located a full city block apart from each other and are on different streets.

The EUSD reports that there have been no behavioral or other incidents between the Exeter CDS students, families, and staff members since the Exeter CDS was collocated on the same site as the Wilson Middle School. This includes before, during, and after school periods for both schools.

*EC* Section 48660 provides that the governing board of a school district may establish one or more CDSs. *EC* Section 48660 also provides that a CDS may serve pupils in a CDS in any of kindergarten and grades one to six, inclusive, or any of grades seven to twelve, inclusive, or the same or lesser included range of grades as may be found in any individual middle or junior high school operated by the school district.

Given the often extremely low enrollment, it is not fiscally feasible to operate two CDS classrooms. Therefore, the EUSD maintains separation of the younger and older CDS students as follows:

* The EUSD has been determined, through use of other means of correction, to greatly limit enrollment in the Exeter CDS with a current enrollment of only 4 students and with a maximum capacity of 12 students.
* Students are separated into three distinct pods by grade level. One pod is for students in grades four through five with a maximum of two students, a second pod is for grades six through eight with a maximum of five students, and the third pod is for grades nine through twelve with a maximum of five students.
* Each pod has a separate break, lunch, and physical education time.

Staff of the Exeter CDS include one full-time teacher who is also the principal, two part-time instructional support aides, and one part-time office specialist. Other support staff providing services for the Exeter CDS students include a resource teacher, licensed clinical social worker, certified alcohol and drug counselor, school psychologist, school resource officer, licensed vocational nurse, and administration support. All staff are trained in Crisis Prevention Intervention. The EUSD will also provide mentor teacher support for the Exeter CDS educators to support effective teaching for this grade span of students.

The EUSD local board voted unanimously in support of the waiver request. The Exeter Teachers Association supports the waiver through its president, Elizabeth Miller. The Exeter Community Advisory Committee, and the School Site Council had no objections.

**Demographic Information:**

The EUSD has a student population of 2,650 students and is located in a rural setting in Tulare County.

**Because this is a general waiver, if the State Board of Education (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. The SBE has also approved several previous waiver requests from small school districts requesting authorization to permit a CDS to serve students in grades four through six with students in grades seven through twelve, but no grade lower than grade four.

## 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:** Exeter Unified School District General Waiver Request
12-2-2021 (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)* sections 48660 and 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/School site Council Name,Date of Reviewand Any Objections |
| --- | --- | --- | --- | --- | --- |
| 12-2-2021 | Exeter Unified School District2,650 students4 students in Exeter Community Day School600 students in Wilson Middle SchoolFebruary 10, 2021 | **Requested:**July 1, 2021,throughJune 30, 2023**Recommended:**July 5, 2021,throughJune 30, 2023 | No | Exeter Teachers Association,Elizabeth Miller,PresidentOctober 15, 2020**Support** | Community Advisory Committee, Schoolsite CouncilOctober 15, 2020**No Objections** |

Created by the California Department of Education March 5, 2021

# Attachment 2: Exeter Unified School DistrictGeneral Waiver Request 12-2-2021

CD Code: 5476836

Waiver Number: 12-2-2021

Active Year: 2021

Date In: 2/22/2021 10:07:36 AM

Local Education Agency: Exeter Unified

Address: 215 North Crespi Ave.

Exeter, CA 93221

Start: 7/1/2021

End: 6/30/2023

Waiver Renewal: Y

Previous Waiver Number: 2-5-2020

Previous SBE Approval Date: 9/10/2020

Waiver Topic: Community Day Schools (CDS)

Ed Code Title: Colocate Facilities and Commingle Grade Levels

Ed Code Section: Portions of 48660 and 48661(a)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: 48660. The governing board of a school district may establish one or more community day schools for pupils who meet one or more of the conditions described in subdivision (b) of Section 48662. A community day school may serve pupils in any of kindergarten and] grades 1 to 6, inclusive, or any of grades 7 to 12, inclusive, or the same or lesser included range of grades as may be found in any individual middle or junior high school operated by the district. If a school district is organized as a school district that serves kindergarten and grades 1 to 8, inclusive, but no higher grades, the governing board of the school district may establish a community day school for any kindergarten and grades 1 to 8, inclusive, upon a two-thirds vote of the governing board of the school district. It is the intent of the Legislature, that to the extent possible, the governing board of a school district operating a community day school for any of kindergarten and grades 1 to 8, inclusive, separate younger pupils from older pupils within that community day school.

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.

(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: Please see attachments for complete explanation.

Student Population: 2650

City Type: Rural

Public Hearing Date: 1/21/2021

Public Hearing Advertised: Public posting, email, phone messages, website.

Local Board Approval Date: 2/10/2021

Community Council Reviewed By: Community Advisory Committee, School Site Council, Exeter Teachers Association, Classified Employees

Community Council Reviewed Date: 10/15/2020

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Mr. Darin Pace

Position: Director of Alternative Programs

E-mail: dpace@exeter.k12.ca.us

Telephone: 559-316-9432

Fax: 559-592-5246

Bargaining Unit Date: 10/15/2020

Name: Exeter Teachers Association (ETA)

Representative: Elizabeth Miller

Title: ETA President

Phone: 559-901-8363

Position: Support

Comments: