

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of EducationJuly 2022 AgendaItem #W-02

## Subject

Request by the **Santa Ana Unified School District** for a waiver of portions of California *Education Code* Section 48660 to permit the REACH Academy Community Day School to serve students in grade six with students in grades seven through twelve, but no grade lower than grade six. The **Santa Ana Unified School District** is also requesting a waiver of portions of California *Education Code* Section 48661(a) to permit the REACH Academy Community Day School to be collocated on the same site as the REACH Academy Night Program, an alternative program of choice serving students enrolled in the district’s continuation and traditional high schools.

## Waiver Numbers

Santa Ana Unified School District 22-3-2022 (Collocation)

Santa Ana Unified School District 23-3-2022 (Grade Span)

## Type of Action

Action, Consent

## Summary of the Issue(s)

Request by the Santa Ana Unified School District (SAUSD) for a waiver of portions of California *Education Code* (*EC*)Section 48660 to permit the REACH Academy Community Day School (RACDS) to serve students in grade six with students in grades seven through twelve, but no grade lower than grade six. The SAUSD is also requesting a waiver of portions of *EC* Section 48661(a) to permit the RACDS to be collocated on the same site as the REACH Academy Night Program (RANP), an alternative program of choice serving students enrolled in the district’s continuation and traditional high schools who need additional support after their regular school day to participate in a credit recovery program.

## 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 RACDS shall be permitted to serve students in grade six with students in grades seven through twelve, but no grade lower than grade six.
* Middle grade students enrolled in the RACDS shall not be educated in combination with students in high school grades.
* In accordance with *EC* Section 48661(b), the SAUSD 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 community day school (CDS).
* The RANP students shall not be on the shared campus during the RACDS instructional day.

## Summary of Key Issues

### Grade Spans – Requesting Grades Six through Twelve

*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 48660 provides that the governing board of a school district may establish one or more CDS. *EC* Section 48660 also provides that a CDS may serve pupils 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.

The SAUSD, while a large urban district of 42,000 students, has been determined, through use of other means of correction, to greatly limit enrollment in its RACDS to serve approximately 50 students at a time. Throughout the district, the SAUSD serves students in the common structure of elementary (kindergarten through grade five), intermediate (grades six through eight), and high school (grades nine through twelve).

The district does not expect more than a small number of sixth grade students to be enrolled in the RACDS. It is not fiscally feasible to operate two CDSs, one for students in grades one through six, and a second for students in grades seven through twelve. At the same time, the SAUSD recognizes its responsibility to ensure that educational placements are available for expelled and other high-risk students. Within the last five years, the SAUSD has only had four sixth grade students for whom they have had to find alternative placements in the RACDS. Without this waiver, expelled sixth graders would have to be served outside of the district. Within the RACDS, the middle and high school students are educated separately.

### Collocation of a Community Day School with an Alternative Program of Choice Serving Continuation and Other District Students

The RANP is an alternative program of choice serving students enrolled in the district’s continuation and traditional high schools. It operates on the same site as the RACDS, but only after the RACDS students have left the campus.

*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 SAUSD, with an enrollment of 42,000 students, is requesting this waiver to authorize it to act similar to a small school district. The SAUSD local board has certified by unanimous vote that there is no alternate site or property in the district for the RACDS to operate at a fully separate location.

The SAUSD currently has over 1,000 students who are 30 or more credits deficient. As a result, each quarter students who are in need of credit recovery are passed over, and in many cases their credit recovery need increases until they are prioritized for enrollment in continuation school when a spot is available. However, by that time it is often too late for students to meet graduation standards and some make the decision to dropout. In order for students to have an opportunity for credit recovery, the SAUSD established the RANP to operate after regular school hours, including nighttime offerings.

The RANP would serve three types of SAUSD students. These include students who need credit recovery but who cannot attend continuation schools due to being too young to meet statutory age restrictions, students who need credit recovery and are eligible for continuation education but there is no space in continuation schools, and students in traditional high schools who need additional access to a credit recovery program after regular school hours. The RANP would offer a flexible structure to address students’ needs as they arise and not be tied to semester restrictions. Students could remain at their home school for dual enrollment as well.

### Safety Measures

Safety measures to ensure that students from the RACDS and the RANP are not able to socialize or have contact with one another; and that the middle and high school students enrolled in the RACDS are similarly separated from each other, are as follows:

* The RACDS middle grade and high school classes are fully separated from each other.
* The RACDS operates with a very low educator to student ratio serving 5 to 10 students per class distributed between 11 classrooms, providing very high levels of supervision.
* The middle school teachers have experience teaching sixth grade. The district believes they could better serve the few sixth graders needing such an alternative placement if these students could remain within the district and receive supportive instruction, including a wide range of support services in the RACDS with other middle school students.
* A strong focus on the RACDS campus is on mental health support and wrap around services for students, with staff including the principal, a psychologist, a counselor, a mental health therapist, a gang interventionist, representation from Project Kinship and outreach consultants, a resource specialist, paraeducators, and a Heart Program provider.
* Bathrooms are only for a single student at a time while students are under the supervision of the school safety officer. During lunch, additional supervision is provided by certificated and classified staff, the district security officer, and school police.
* The same array of mental health, gang intervention, and other support and safety services will be provided to RANP students as are provided to RACDS students earlier in the day.
* The RANP would run Monday through Friday from 3:30 to 8:00 p.m. on the same site used by the RACDS that would run from 8:30 a.m. to 3:00 p.m. during the day. This would allow enough time for all RACDS students to leave campus and for the night time students to come to campus while site staff can provide strong supervision to avoid having any issues or conflicts during the 30 minute transition.
* The State Board of Education (SBE) has previously approved prior requests by the SAUSD for the same provisions as these waivers, starting in 2019, but those waivers had lapsed prior to the district’s request for renewal; therefore, the current requests could not be presented officially as renewal waivers. There have been no negative interactions between younger and older students within the RACDS nor between students of the RACDS and the RANP through to the current time.

### Local Support

The local board voted unanimously to request these waivers. The Santa Ana Educators’ Association supports the waiver through its president, Barbara Pearson. The REACH Academy School Site Council representing the RACDS and each of the district’s schools sending students to the RACDS or the RANP had no objections.

**Demographic Information:**

The SAUSD has a student population of 42,000 students and is located in an urban setting in Orange 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 unified school districts requesting authorization to permit a CDS to serve students in grades six through twelve, inclusive, allowing the district to serve all of its middle school students in need of CDS services when separate alternative facilities for the sixth grade students are not feasible. The SBE has also 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

There is no statewide fiscal impact of this waiver renewal and approval.

## Attachment(s)

* **Attachment 1:** Summary Table of Community Day School State Board of Education Waiver (1 page)
* **Attachment 2:** Santa Ana Unified School District General Waiver Request 22-3-2022 (3 pages). (Original Waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Santa Ana Unified School District General Waiver Request 23-3-2022 (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

California *Education Code* (*EC*)Section 48916.1(d) and portions of sections 48660 and 48661(a)

| 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 |
| --- | --- | --- | --- | --- | --- |
| 22-3-202223-3-2022 | Santa Ana Unified School District42,000 students50 students in REACH Academy Community Day School125–175 students in REACH Academy Night ProgramMarch 22, 2022 | **Requested:**August 1, 2021throughJune 30, 2023**Recommended:**August 1, 2021throughJune 30, 2023 | No | Santa Ana Educators’ AssociationBarbara Pearson,PresidentMarch 15, 2022**Support** | REACH Academy School Site CouncilFebruary 18, 2022**No Objections** |

Created by California Department of Education

April 11, 2022

# Attachment 2: Santa Ana Unified School DistrictGeneral Waiver Request 22-3-2022

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 3066670

Waiver Number: 22-3-2022

Active Year: 2022

Date In: 3/24/2022 4:10:13 PM

Local Education Agency: Santa Ana Unified

Address: 1601 East Chestnut Ave.

Santa Ana, CA 92701

Start: 8/1/2021

End: 6/30/2023

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

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: *Education Code* Section 48661(a).

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:

The purpose of the REACH Academy Night Program (RANP) (alternative program of choice) is to serve the students of the Santa Ana Unfiid School District (SAUSD) in three areas of need: credit recovery, to reach those students that need credit recovery but can’t attend Cesar E. Chavez High or Lorin Griset Academy due to age restrictions and for students that need a full-time alternative. These would all be offered in a flexible structure to address these needs as they arise and not be tied to semester restrictions. Students could remain at their home school for dual enrollment as well.

Prior to opening and establishing this program (RANP), the available opportunities for students to access programs for credit recovery, course completion, and full-time alternative did not meet the current need of district students. The Educational Options continuation schools, Cesar E. Chavez High and Lorin Griset Academy have quarterly enrolment opportunities for students to leave their school of residence and enroll in the quarter system structure that provides opportunity for credit recovery. Each quarter during these enrollment opportunities, the available spots are far fewer than the needs of students enrolled in our comprehensive schools. We currently have over 1,000 students that are 30 credits or more deficient in our area schools. As a result, each quarter students that are in need of course recovery are passed over and in many cases their credit recovery need increases until they are a prioritized student referred for enrollment when a spot is available. But this can often be too late. Due to continuation education guidelines, students cannot enroll in Lorin Griset Academy or Cesar E. Chavez High until they are sixteen. At RANPwe can enroll students who are younger than sixteen and be able to address this issue of credit deficiency as early as Freshmen year. In order to have this opportunity, we need to have nighttime program classes availalbe in which we can help students who need such a schedule.

To address the credit deficient challenges that we are experiencing in the district, the SAUSD established an alternative program of choice that operates separately at the REACH Academy campus after the RACDS hours and other school hours in the district. The intent was that students would have an after school option into the evening to make up credits or take additional classes as well. Students would take classes in the traditional model of the quarter system as well as APEX online courses.

The RANP would run Monday through Friday from 3:30 to 8:00 p.m. This would give enough time for all RACDS students to leave campus and for the alternative school of choice students to come to campus and not have any issues or conflicts during this transition.

Our campus has a total of 11 classrooms, so classes are very small and supervision is constant in between passing periods and lunch time as well. Currently, we average between 125–175 night program students on campus in the alternative program of choice with our population fluctuating throughout the year for students coming from the district or neighboring charter schools. Safety is one of our prime concerns and focal points. We have a total of 7–9 adults, (certificated, classified, District Security Officer and School Police) serving on campus during these program hours.

Another focal point in our campus is all of the mental health support that we give our students. We continue to serve with our wrap around services (Principal, Psychologist, Designated Instruction and Related Services Counselor, Mental Health Therapist, Gang Interventionist-Project Kinship, Outreach consultants, Resource Specialist, Paraeducators, Heart Program) to fully support our students and will continue these support systems with any students that we receive in the evening as well.

Student Population: 50

City Type: Urban

Public Hearing Date: 3/22/2022

Public Hearing Advertised: Online and agenda posted at the district office

Local Board Approval Date: 3/22/2022

Community Council Reviewed By: School Site Council

Community Council Reviewed Date: 2/18/2022

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Mr. Chad Greendale

Position: Principal

E-mail: chad.greendale@sausd.us

Telephone: 714-431-1800

Fax:

Bargaining Unit Date: 03/15/2022

Name: Santa Ana Educators’ Association (SAEA)

Representative: Barbara Pearson

Title: SAEA President

Phone: 714-542-6758

Position: Support

Comments:

# Attachment 3: Santa Ana Unified School DistrictGeneral Waiver Request 23-3-2022

CD Code: 3066670

Waiver Number: 23-3-2022

Active Year: 2022

Date In: 3/24/2022 4:22:17 PM

Local Education Agency: Santa Ana Unified

Address: 1601 East Chestnut Ave.

Santa Ana, CA 92701

Start: 8/1/2021

End: 6/30/2023

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Community Day Schools (CDS)

Ed Code Title: Commingle Grade Levels

Ed Code Section: Portions of Section 48660

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: *Education Code* Section 48660.

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 of kindergarten and grades 1 to 8, inclusive, upon 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.

Outcome Rationale: Outcome Rationale: The Board’s rationale for this waiver is to be able to utilize the Reach Academy Community Day School (RACDS) in a wider grade span. Due to economic issue that state is in, it is necessary to combine multiple grade levels into one CDS. The district’s CDS have been traditionally very small, serving 5 to 10 students per class at any given time. Allowing a larger grade span will not diminish the program’s effectiveness It will allow the district/state to be able to serve more students. Without this waiver, expelled students in the sixth grade would have to travel outside of the district to Axxess campuses for support. Allowing the district this flexibility during these economic times will give students more education options and not cost the district or state more money.

We separate students from different classes, where our middle school students are separated from our high school students and do not take classes with them. Because our campus is so small, bathroom use is separated that only one student is able to use the bathroom at a time. Each teacher communicates with our safety officer to see if the bathroom is open. Once the student is done using that bathroom and back in their classroom then the next student is allowed to use the bathroom.

Our campus has a total of 11 classrooms, so things are very small and supervision is constant in between passing periods and lunch time as well. Safety is one of our prime concerns and focal points. During lunch time we have a total of 7–9 adults, (certificated, classified, District Security Officer and School Police) out during lunch time.

Another focal point in our in our campus is all of the mental health support that we give our students. We continue to serve with our wrap around services (Principal, Psychologist, Designated Instruction and Related Services Counselor, Mental Health Therapist, Gang Interventionist-Project Kinship, Outreach consultants, Resource Specialist, Paraeducators, Heart Program) to fully support our students and will continue these support systems with any sixth grade students that we receive as well.

Our current multiple subject teachers already have experience in teaching sixth grade, but we will also be sending them to district trainings that are subject and grade specific to help support them if the need arises for us to have sixth graders on campus.

With the economic pressures facing schools, currently the district is unable to fund two full programs. We are requesting to have a waiver to expand the RACDS to serve students in grades six through twelve.

Within the five years we have only had 4 sixth grade students that have needed to find alternative placement in the RACDS grade. Within those 5 years, we have averaged 50 CDS students on campus with our population fluctuating throughout the year for students coming from various agencies to and from the district. With those statistics beings small and remote, we do not anticipate having more than a 4:1 student to teacher ratio in regards to the sixth grade cohort. With this ratio there is plenty of individualized instruction. There are even times when there are no students enrolled (sixth grade) and then there are times when there are only middle school students (seventh and eighth grade) and others when there are only high school students. With the needs being so flexible we need more flexibility in our program to serve our students.

Student Population: 50

City Type: Urban

Public Hearing Date: 3/22/2022

Public Hearing Advertised: Online and agenda posted at the district office

Local Board Approval Date: 3/22/2022

Community Council Reviewed By: School Site Council

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Community Council Objection Explanation:

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Position: Support