

**California Department of Education**  
**WAIVER SUBMISSION- General**

CD Code: 3667827

Waiver Number: 17-12-2016

Active Year: 2016

Date In: 12/13/2016 11:03:30 AM

Local Education Agency: Oro Grande Elementary School District  
Address: 19175 Third St.  
Oro Grande, CA 92368

Start: 7/1/2016

End: 7/1/2018

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Charter School Program

Ed Code Title: Geographic Limitations - Non-classroom Based

Ed Code Section Portions of EC Sections 47605(a)(1) and 47605.1

Ed Code Authority: 33050

Ed Code or CCR to Waive: *Education Code* section 47605:

(a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school [within a school district] may be circulated by one or more persons seeking to establish the charter school. A petition for the establishment of a charter school shall identify a single charter school [that will operate within the geographic boundaries of that school district.] A charter school may propose to operate at multiple sites [within the school district] if each location is identified in the charter school petition.

(5) [A charter school that is unable to locate within the jurisdiction of the chartering school district may establish one site outside the boundaries of the school district, but within the county in which that school district is located, if the school district within the jurisdiction of which the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent are notified of the location of the charter school before it commences operations, and either of the following circumstances exists:]

*Education Code* Section 47605.1:

(d) [Notwithstanding subdivision (a) or subdivision (a) of Section 47605, a charter school that is unable to locate within the geographic boundaries of the chartering school district may establish one site outside the boundaries of the school district, but within the county within which that school district is located, if the school district in which the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools is notified of the location of the charter school before it commences operations, and either of the following circumstances exist:]

## Outcome Rationale: The Mojave River Program

Mojave River operates an academically rich, individualized, educational program for students in grades K-12 who are seeking an alternative academic program. Mojave River is a school of choice where parents, students, teachers, and the community work together to educate one student at a time. Mojave River accomplishes its mission by providing a rigorous, independent study based, individualized program of academic study based on the adopted California State Frameworks, and aligned with the California Content Standards. Mojave River provides students with opportunities to apply their learning in meaningful ways through projects and demonstrations. The goal of Mojave River is to produce students who are self-motivated, competent, life-long learners and contributors to society.

### Out-of-District Facilities

On October 16, 2016, the 3rd District Court of Appeal ruled in *AUHSD v. Shasta Secondary Home School* ("Shasta Ruling") that pursuant to *Education Code* Section 47605(a), independent study charter schools may not have resource centers outside of the boundaries of the school district in which the charter school is authorized, but within the same county.

Currently, Mojave River has one (1) facility within the District's boundaries and eight (8) resource centers outside District boundaries but within San Bernardino County. This waiver is necessary to allow the continued operation of Mojave River's existing resource centers where a large number of students served are significantly at risk or have special needs, such as special education services, English Language Development, credit recovery, counseling, and intervention services.

### Students/ Employees Affected

The Shasta Ruling has the potential to impact approximately 863 students: 71% socioeconomically Disadvantaged, 21% English Learners, and 4.5% SPED population.

This ruling will also have an impact on the 57 Mojave River employees at those

### sites. Financial Cost

As a non-classroom based charter school, Mojave River is not eligible for Proposition 39 funding so all leased facilities are directly funded by Mojave River. The impact of the Shasta court's ruling could result in the closing of its facilities, and the loss of 863 students, employment of approximately 57 school employees, and the inability of Mojave River to meet the financial obligations related to each facility. The result has the potential to cause Mojave River to become insolvent and force it to file for bankruptcy.

This waiver is necessary to protect the continued operation of Mojave River's existing resource centers that provides the services and resources required under *Education Code* Section 51746, intervention support for all students, but also provides a location for federally mandated special education services to allow the provision of a free appropriate public education ("FAPE") to students who qualify under the Individuals with Disabilities in Education Act ("IDEA") and state mandated testing as required of charter schools pursuant to *Education Code* Section 47605(c).

## District Oversight

The Oro Grande School District Provides supervisory oversight for Mojave River as required by Education Code Section 47604.32. The District affirms that at all times Mojave River has operated its resource centers consistent with the advice and written guidance issued by the California Department of Education since 2002.

Student population: 1588

City type: rural

Public hearing date: 12/7/2016

Public hearing advertised: notice posted at the District main office and Charter School main office and online.

Local Board Approval Date: 12/7/2016

Community Council Reviewed By: Mojave River Academy Inc., Board of Directors

Community Council Reviewed Date: 12/7/2016

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Mr. William Flynn

Position: Assistant Superintendent Charter Services

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Name of Bargaining Unit: Oro Grande Elementary School Teachers Association

Representative Name and Title: Suzy Watts, President

Date the bargaining unit was consulted: January 27, 2017

Position of the bargaining unit: Support