

California Department of Education

Executive Office

SBE-006 (REV. 11/2017)

Child Specific NPA or NPS Certification

# California State Board of Education January 2018 AgendaItem #W-14

## Subject

Request by **Ventura Unified School District** to waive California *Education Code* Section 56366(d), the requirement for state certification to allow an uncertified out-of-state nonpublic school, American School for the Deaf/Positive Attitudes Concerning Education and Socialization Program,located in Hartford, Connecticut, to provide services to a California student with disabilities.

## Waiver Number

18-10-2017

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Ventura Unified School District (VUSD) contacted 62 nonpublic schools (NPSs) and residential treatment centers, both in and out of state, in an attempt to provide a free appropriate public education (FAPE) to one student who requires a highly specialized residential program. The non-certified NPS, American School for the Deaf/Positive Attitudes Concerning Education and Socialization Program (ASD/PACES), located in Hartford, Connecticut, accepted the student and is able to meet the student’s need for a specialized residential program to provide FAPE and meet the Individualized Education Program (IEP) goals. This placement was ordered by the California Office of Administrative Hearings (OAH) in a Settlement Agreement dated October 3, 2017.

The VUSD requests to waive California *Education Code* (*EC*) Section 56366(d), the requirement for state certification, to allow the use of federal and state special education funds for the placement of this student at ASD/PACES.

## Authority for Waiver

*Education Code* Section 56101

## Recommendation

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

As the VUSD has submitted all required documents as part of its waiver request, the California Department of Education recommends approval of this waiver, with conditions, for the period requested: November 1, 2017, through November 1, 2018.

This recommendation for approval is contingent upon the following conditions:

* The VUSD will consult with Ventura County Special Education Local Plan Area (SELPA) Residential Placement Specialists, who will personally review the student placement on-site at ASD/PACES in Connecticut.
* The VUSD will participate in clinical team conferences with ASD/PACES, SELPA Residential Placement Specialist(s), and the student’s parent(s) no less than bi-weekly to monitor the provision of program services and review the student’s progress via e-mail and/or phone.
* The VUSD will schedule IEP meetings in collaboration with ASD/PACES at least at 12 week intervals to review program data and student progress and allow for IEP amendments as needed.
* The VUSD will contact the student and parents bi-monthly to review program data, discuss treatment progress, and address any concerns. Program data will include the following: progress on IEP goals, school attendance, work completion rate, grades, active participation in therapeutic interventions, and incident/safety reports.
* The VUSD will have a district representative personally visit ASD/PACES in Connecticut after the student is transitioned to the program.

## Summary of Key Issues

The VUSD contacted 62 NPSs and residential treatment centers, both in and out of state, in an attempt to provide a FAPE to one student who requires a highly specialized residential program. The student requires a program that addresses both deafness and mental health needs. The student is also legally blind, which adds another layer of need, including Orientation and Mobility (OM) services. In addition, the student suffers from post-traumatic stress symptoms, and recent changes in the student’s medical condition indicating a stroke or other brain trauma may have occurred, which have impacted the student’s physical and cognitive status. The student’s previous placements at both in and out of state programs have been unsuccessful.

ASD/PACES is a comprehensive, residential treatment program designed to meet the needs of students who are deaf or hearing impaired and also have emotional and/or behavioral challenges that prevent the student from accessing more traditional settings. ASD/PACES is located near the Perkins School for the Blind (PSB), enabling PSB to provide direct vision and OM services to the student and consultative services to the ASD/PACES staff. ASD/PACES is a non-certified, out of state NPS that will provide positive behavior interventions, one-to-one supervision, individual and small group clinical services, on-site psychiatric consultation and treatment, and medication management. The student’s parents and VUSD agree ASD/PACES is the most appropriate placement to implement the student’s IEP. Further, this placement was ordered by the OAH in a Settlement Agreement dated October 3, 2017.

The placement does not abrogate any right provided to students with disabilities and their parents or guardians under the federal Individuals with Disabilities Education Act or affect the compliance of VUSD with federal laws and regulations. In addition, before contracting with the nonpublic, nonsectarian school outside of this state, the VUSD documented its efforts to use public schools and to identify an appropriate nonpublic, nonsectarian school or agency program, or both, within the state.

**Demographic Information:** The VUSD has a student population of 16,900 and is located in a suburban area in Ventura County.

## Summary of Previous State Board of Education Discussion and Action

Within the past two years, the State Board of Education has received and approved seven waivers similar to this allowing local educational agencies to waive *EC* Section 56366(d), the requirement for state certification.

## Fiscal Analysis (as appropriate)

If this waiver is approved, VUSD may use state and federal special education funds for the placement of this student at ASD/PACES. If this waiver is denied, VUSD may use only local funds to support the student’s placement at ASD/PACES. The annual cost for placement at ASD/PACES for this student is $488,502.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Ventura Unified School District Specific Waiver Request
18-10-2017 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 56366(d)

| Waiver Number | District | Period of Request | District’s Request | CDE Recommended | Local Board and Public Hearing Approval | Penalty Without Waiver | Previous Waivers |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 18-10-2017 | Ventura Unified School District | **Requested:** November 1, 2017, to November 1, 2018**Recommended:** November 1, 2017, to November 1, 2018 | To waive certification to allow VUSD to use federal and state special education funds for the placement of a student in an uncertified out-of-state nonpublic school | Approval with conditions for the period requested | October 3, 2017**No Objections** | The VUSD may not use federal and state special education funds for the placement of the student at the uncertified out-of-state nonpublic school | None |

Created by California Department of Education
October 2017

# Attachment 2: Ventura Unified School District Specific Waiver Request

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 5672652

Waiver Number: 18-10-2017

Active Year: 2017

Date In: 10/25/2017 8:50:31 AM

Local Education Agency: Ventura Unified School District

Address: 255 West Stanley Ave., Ste. 100

Ventura, CA 93001

Start: 11/1/2017

End: 11/1/2018

Waiver Renewal: No

Previous Waiver Number: *(None)*

Previous SBE Approval Date: *(None)*

Waiver Topic: Special Education Program

Ed Code Title: Child Specific/ NPA or NPS Certification

Ed Code Section: 56366.1(a)

Ed Code Authority: 56101

Ed Code or *CCR* to Waive: [56366.1(a)] A nonpublic school (NPS) application has never been filed with the California Department of Education (CDE) to certify this school for calendar year 2017 and 2018.

Outcome Rationale: Non-Public School is located outside of California and is not currently certified by CDE. As of November 1, 2017, pursuant to IEP team determination and a Settlement Agreement, Student will be residentially placed in the NPS. Please see supplemental materials, attached.

Student Population: 16900

City Type: Suburban

Local Board Approval Date: 10/3/2017

Audit Penalty YN: No

Categorical Program Monitoring: No

Submitted by: Ms. Robin Faigin

Position: Director, Special Education

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