

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Child Specific NPA or NPS Certification

# California State Board of Education July 2018 Agenda Item #W-16

## Subject

Request by **Tamalpais Union High School District** to waive California *Education Code* Section 56366.1(a), the requirement for state certification to allow the uncertified out-of-state nonpublic school, Maple Lake Academylocated in Spanish Fork, Utah, to provide services to one student with disabilities.

## Waiver Number

9-2-2018

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Tamalpais Union High School District (TUHSD) contacted certified nonpublic-nonsectarian schools (NPSs) in-state and three certified out-of-state residential treatment centers to offer a free and appropriate public education (FAPE) to one high school student who has significant social-emotional needs in conjunction with high-functioning autism. None of these placement options would accept the student, or could meet the student’s comprehensive, unique needs.

The Maple Lake Academy (MLA) is a residential treatment center located in Spanish Fork, Utah with a specialized program for girls with emotional disorders and verbal and non-verbal learning disabilities. The MLA provides a minimum of 20 hours per week of therapy and offers class sizes of five to seven students.

The TUHSD requests to waive California *Education Code* Section 56366.1 (a), the requirement for state certification, to allow the use of state and federal special education funds for the placement of this student at MLA.

## Authority for Waiver

*Education Code* Section 56101

## Recommendation

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

As the TUHSD has submitted all required documents as part of the waiver request, the California Department of Education recommends approval of this waiver, with conditions, for the period requested: August 22, 2017, through July 31, 2018. This recommendation for approval is contingent upon the following conditions:

* TUHSD will consult with the MLA liaison monthly to monitor the provision of services and review the student’s progress via e-mail, phone calls, and review of program data. Program data will include the progress of individual educational program (IEP) goals, school attendance, work completion rates, grades, active participation in therapeutic interventions, and incident/safety reports.
* TUHSD will schedule IEP meetings at a minimum of every three months to review program data, the student’s progress, and determine any necessary changes in the student’s program.
* TUHSD will contact the student and the student’s parents monthly to discuss treatment progress and address concerns.

## Summary of Key Issues

The uncertified NPS, MLA, accepted the student and is able to meet the student’s need for a specialized residential program to provide FAPE and meet the IEP goals. The student has been attending MLA for the past two years as a result of a mediated settlement. The TUHSD has worked closely with the family and MLA, and reports the student has been successful in that setting. The student’s parents and the TUHSD fear the transfer to another residential treatment center would result in significant regression. The student is scheduled to transition back to the local educational agency’s (LEA’s) day treatment program for tenth grade.

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 TUHSD with federal laws and regulations. In addition, before contracting with the uncertified NPS outside of the state, the TUHSD documented its efforts to use public schools and to identify an appropriate certified NPA or agency program, or both, within the state.

**Demographic Information:** The TUHSD has a student population of 4,828 and is located in a rural area in Marin 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 11 waivers similar to this allowing LEAs to waive *EC* Section 56366.1(a), the requirement for state certification.

## Fiscal Analysis (as appropriate)

If this waiver is approved, TUHSD may utilize state and federal special education funds for the placement of this student at MLA. If this waiver is denied, TUHSD may utilize only local funds to support the student’s placement at MLA. The yearly cost for placement at MLA for this student is $124,500.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Tamalpais Union High School District Specific Waiver Request 9-2-2018 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* 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 |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 9-2-2017 | Tamalpais Union High School District (TUHSD) | **Requested:** August 22, 2017, to July 31, 2018  **Recommended:** August 22, 2017, to July 31, 2018 | To waive NPS certification to allow TUHSD to use state and federal special education funds for the placement of a student in an uncertified out-of-state NPS | Approval with conditions for the period requested | February 6, 2018 | The TUHSD may not use state and federal special education funds for the placement of the student at the uncertified out-of-state NPS | None |

Created by California Department of Education

May 2018

# Attachment 2: Waiver 9-2-2018 Tamalpais Union High School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 2165482

Waiver Number: 9-2-2018

Active Year: 2018

Date In: 2/14/2018 9:41:01 AM

Local Education Agency: Tamalpais Union High

Address: 395 Doherty Dr.

Larkspur, CA 94977

Start: 8/22/2017

End: 7/31/2018

Waiver Renewal: No

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)

Outcome Rationale: Maple Lake Academy is not certified with CDE as an NPS placement in Utah specializing in providing a safe and nurturing home environment for adolescent girls who have been previously diagnosed with nonverbal, cognitive and/or language based learning disabilities. We have a student who matriculated into our high school district, on a non-IEP settlement agreement with the prior feeder school district for funding of Maple Lake Academy, as they could not locate an appropriate placement for her due to her unique needs. Student matriculated into our high school district in August 2017, and transitioning her into an NPS certified placement is contraindicated and parent will not consent. Rather, her IEP team would like Maple Lake to be her IEP placement for her 9th grade year, while we transition her home and into our district-run day treatment program for 10th grade. We need a waiver so that we can provide her with FAPE for August 22, 2017- July 31, 2018 at Maple Lake Academy.

Please see waiver attachment for more information.

Student Population: 12

City Type: Rural

Local Board Approval Date: 2/6/2018

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Amira Mostafa

Position: Director of Special Education

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