

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education July 2018 Agenda Item #W-19

## Subject

Request by two local educational agencies to waive *Education Code* Section 56362(c), allowing the caseloads of resource specialists to exceed the maximum caseload of 28 students by no more than four students (32 maximum).

## Waiver Number

* Fowler Unified School District 34-3-2018
* Manteca Unified School District 7-4-2018
* Manteca Unified School District 8-4-2018

## Type of Action

Action, Consent

## Summary of the Issue(s)

Two local educational agencies (LEAs) request to increase the caseloads of three resource specialists from the maximum allowed caseload of 28 students to 32 students.

## Authority for Waiver

*Education Code (EC)* Section 56101

## Recommendation

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

The California Department of Education (CDE) recommends approval with the following conditions: (1) The District must provide each resource specialist instructional aide time of at least five hours daily whenever the resource specialists’ caseloads exceed the statutory maximum caseload of 28 students by no more than 4 students (32 maximum), during the waiver's effective period, per *California Code of Regulations* Title 5 (5 *CCR*), Section 3100(d)(2).

## Summary of Key Issues

A resource specialist is a credentialed teacher providing instruction and services to children with individualized education programs (IEPs) that are assigned to general education teachers for the majority of the school day. Resource specialists coordinate special education services with general education programs as well as provide direct instruction and consultation for students with IEPs.

The CDE, Special Education Division (SED), completes a thorough review of the components of the resource specialist program (RSP) caseload waiver submissions to develop waiver recommendations and conditions including, but not limited to the following:

* Confirming the demographic information on the waiver submission is accurate.
* Contacting the resource teacher to confirm that the teacher agreed to the waiver, and the teacher information provided on the waiver submission is accurate.
* Contacting the union representative to confirm that the LEA contacted the representative about the waiver.
* Reviewing the number of RSP caseload waivers submitted by the LEA over the last two school years to ensure the number of requests are reasonable based on the size of the LEA.
* Reviewing the SED compliance complaint database for any RSP caseload complaints filed against the LEA. If a complaint has been filed, the SED follows up on any determinations of noncompliance and corresponding corrective actions.
* If necessary, talking to the LEA administrator to gather additional information.

Any relevant information obtained from this review is included in the description below.

**Fowler Unified School District (FUSD) 34-3-2018**

The FUSD requests to increase the caseload of Pam Tesmer, resource specialist at Fremont Elementary School. The CDE recommends approval with conditions. There have been no prior documented complaints registered with the CDE related to this school district exceeding the maximum RSP caseload of 28 students, nor has the FUSD applied for a waiver within the previous two years. The resource specialist agreed to the waiver, and is receiving the required amount of instructional aide time.

**Demographic Information:** The FUSD has a student population of 2,595 and is located in a small city in Fresno County.

**Manteca Unified School District (MUSD) 7-4-2018, 8-4-2018**

The MUSD requests to increase the caseloads of resource specialists Jacqueline Lara at Great Valley Elementary School (7-4-2018), and Janet Gomes at Walter Woodward Elementary School (8-4-2018). The CDE recommends approval with conditions. There have been no prior documented complaints registered with the CDE related to this school district exceeding the maximum RSP caseload of 28 students, nor has the MUSD applied for a waiver within the previous two years. The resource specialists agreed to the waiver, and are receiving the required amount of instructional aide time.

**Demographic Information:** The MUSD has a student population of 23,441 and is located in a small city in San Joaquin County.

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

*EC* Section 56101 allows the State Board of Education (SBE) to waive any provision of *EC* or regulation if the waiver is necessary or beneficial when implementing a student’s IEP. Title 5 *CCR* specifically allows the SBE to approve waivers for RSP caseloads to exceed the maximum caseload of 28 students by no more than 4 students. However, there are specific requirements in regulations which must be met for approval, and if requirements are not met, the waiver must be denied:

(1) The requesting agency demonstrates to the satisfaction of the SBE: (a) that the excess resource specialist caseload results from extraordinary fiscal and/or programmatic conditions; and (b) that the extraordinary conditions have been resolved or will be resolved by the time the waiver expires.

(2) The waiver stipulates that an affected resource specialist will have the assistance of an instructional aide at least five hours daily whenever that resource specialist's caseload exceeds the statutory maximum during the waiver's effective period.

(3) The waiver confirms that the students served by an affected resource specialist will receive all of the services called for in their IEPs.

(4) The waiver was agreed to by any affected resource specialist, and the bargaining unit, if any, to which the resource specialist belongs participated in the waiver's development.

(5) The waiver demonstrates to the satisfaction of the SBE that the excess caseload can be reasonably managed by an affected resource specialist in particular relation to: (a) the resource specialist's student contact time and other assigned duties; and (b) the programmatic conditions faced by the resource specialist, including, but not limited to, student age level, age span, and the behavioral characteristics; number of curriculum levels taught at any one time or any given session; and intensity of student instructional needs.

The SBE receives several waivers of this type each year, and approximately 90 percent are approved. Due to the nature of this type of waiver, RSP waivers are almost always retroactive.

## Fiscal Analysis (as appropriate)

There is no statewide fiscal impact of waiver(s) approval.

## Attachment(s)

* **Attachment 1:** Summary Table (3 pages)
* **Attachment 2:** Fowler Unified School District Waiver 34-3-2018 (6 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Manteca Unified School District Waiver 7-4-2018 (6 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 4:** Manteca Unified School District Waiver 8-4-2018 (6 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* Section 56101

| Waiver Number | School District, School | Name of Teachers, Agrees to Excess Caseload? | Over Statutory Caseload for More Than Two Years? | Previous Aide Time (prior to increased caseload), Current Aide Time (with increased caseload) | Period of Request | Local Board Approval Date | Bargaining Unit, Representative, Consulted, Date, and Position |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 34-3-2018 | Fowler Unified School District, Fremont Elementary School | Pam Tesmer **Yes** | No | **Previous:** 4.5 hours per day  **Current:** 5 hours per day | **Requested**  January 24, 2018,  to June 7, 2018  **Recommended** January 24, 2018, to June 7, 2018 | March 23, 2018 | Fowler Teachers Association/ California Teachers Association, Lisa Irick President 1/17/2018 Support |
| 7-4-2018 | Manteca Unified School District, Great Valley Elementary School | Jaqueline Lara  **Yes** | No | **Previous:** 5 hours per day  **Current:** 5 hours per day per the California Department of Education (CDE), Special Education Division (SED) review | **Requested**  February 5, 2018, to  May 25, 2018  **Recommended**  February 5, 2018, to  May 25, 2018 | April 17, 2018 | Manteca Educator’s Association, Ericka Meadows President 2/6/2018 Support |
| 8-4-2018 | Manteca Unified School District, Walter Woodward Elementary School | Janet Gomes **Yes** | No | **Previous:** 5 hours per day  **Current:** 10 hours per day per the CDE, SED review | **Requested**  February 21, 2018, to  May 25, 2018  **Recommended**  February 21, 2018, to  May 25, 2018 | April 17, 2018 | Manteca Educator’s Association, Ericka Meadows President 2/6/2018 Support |

Created by California Department of Education   
May 2018

# Attachment 2: Waiver 34-2-2018 Fowler Unified School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 1062158

Waiver Number: 34-3-2018

Active Year: 2018

Date In: 3/26/2018 6:06:25 PM

Local Education Agency: Fowler Unified School District

Address: 658 East Adams Ave.

Fowler, CA 93625

Start: 1/24/2018

End: 6/7/2018

Waiver Renewal: No

Waiver Topic: Special Education Program

Ed Code Title: Resource Teacher Caseload

Ed Code Section: 56362 (c)

Ed Code Authority: 56101 and 5 *CCR* Section 3100

Ed Code or *CCR* to Waive: California *Education Code* 56362 [(c) Caseloads for resource specialists shall be stated in the local policies developed pursuant to Section 56195.8 and in accordance with regulations established by the board. No resource specialist shall have a caseload which exceeds 28 pupils.]

Outcome Rationale: An unforeseen increase in the number of students at speciic school site qualifying for IEP sercies with placement in a Resource Specialist program during the Spring semester of nthe current school year. The Resource Teacher has the ability and recources to meet the IEP needs of assigned students on caselaod.

Student Population: 2595

City Type: Small

Local Board Approval Date: 3/23/2018

Audit Penalty Yes or No: N o

Categorical Program Monitoring: No

Submitted by: Mr. Scott Griffin

Position: Assistant Superintendent

E-mail: [sgriffin@fowlerusd.org](mailto:sgriffin@fowlerusd.org)

Telephone: 559-834-6080 x6084

Fax: 559-834-3390

Bargaining Unit Date: January 17, 2018

Name: Fowler Teachers Association/CTA

Representative: Lisa Irick

Title: CTA President/Teacher (Sutter Middle School)

Position: Support

**California Department of Education**

**Revised 1-19-2018**

## Specific Waiver Request for Resource Specialist Caseload

**To be completed by the Administrator**

SELPA / District / COE Name: Fresno County/Fowler School District

Name of Resource Specialist: Pam Tesmer

School / District Assignment: Fresno County/Fowler School District

Status: Permanent, Probation or Temporary: Permanent

Number of Students: 28

Caseload proposed number of students: 32

Full time Equivalent (FTE%): 1.0

Number of periods or hours taught by Resource Specialist: 6.5 hours

Average number of students per hour taught: 4–14 per hour

Indicate amount of Instructional Aide time hours to be provided to this resource specialist with this waiver: 5

**Note: At least 5 hours of aide time is required when the caseload is over 28, per *CCR*, Title 5, Section 3100(d)(2).**

Provide assurance that the waiver will not hinder the implementation of a student’s individualized educational program (IEP) for all students involved with the waiver or compliance with specified federal law, per *CCR*, Title 5, Section 3100(d):

Allocation of staff and resources are sufficient to meet the needs of assigned students.

Explain what extraordinary fiscal or program circumstances resulted in this request for excess caseload, per *CCR*, Title 5, Section 3100(d):

Unexpected increase in the number of students qualifying for RSP services at this time of the school year; thereby, exceeding the 28 student caseload.

Indicate how your plan of action to resolve conditions by the time the waiver expires or is denied by the SBE, per CCR, Title 5, Section 3100(d)(1):

If the RSP caseload exceeds 28 by the time the waiver expires, RSP staff support would be reallocated to the specific school site.

Administrator/Designee Name and title: Scott Griffin, Assistant Superintendent

Telephone number (and extension): (559) 834-6080 x6084

Date: March 23, 2018

## Specific Waiver Request for Resource Specialist Caseload

**To be completed by the Resource Specialist (Teacher)**

Name: Pam Tesmer

Assigned at: Fremont Elementary/Fowler Unified School District

Is the information in Items 1 through 12 on the attached SW \_ RSC \_ Administrator form an accurate reflection of your current assignments, personal data, FTE, your caseload, number of periods taught and average number of students? Yes or No: Yes

If not, please state where you believe these facts or numbers differ

Will all students served receive all of the services called for in their IEP’s?

Can you reasonably manage the excess caseload in relation to the programmatic condition you face, including, but not limited to, student age level, age span, and behavioral characteristics; number of curriculum levels taught at any one time or any given session, and intensity of student instructional needs? Please explain:

Yes, students will receive all of the services called for in their IEPs. With the additional instructional aide time as well as support from the district this will not be an issue.

Can you reasonably manage the excess caseload in relation to your student contact time, and other assigned duties? Please explain:

Yes, additional students are placed in existing groups based on age, IEP goals and behavioral needs. Classroom has sufficient curricular materials and supplies (books, technology access) to accommodate increased caseload.

*EC* Section 56362(c) states that no resource specialist shall have a caseload which exceeds 28 students, per *CCR*, Title 5, Section 3100. Regulations allow your agency to request a waiver of the *EC*, providing certain conditions are met, and that in no circumstance may your caseload be raised to above 32 students.

Indicate your position regarding this waiver request by a check mark next to the correct line:

AGREE X to the increase in my student caseload from 28 students to not more than

32 students.

DISAGREE to an increase in my student caseload over the 28 students. If disagreeing, provide rational below:

Indicate a check mark on the appropriate line:

I did not have a student caseload of more than 28 during the last school year. X

I did have a student caseload of more than 28 during the last school year. If yes, please respond below:

1. Did you have an approved waiver for this caseload? Yes or No:
2. Specify which months / weeks you were over caseload: From/to:
3. Other pertinent information:

I have had a student caseload of more than 28 for more than two consecutive years. Yes or No: No

Instructional Aide time currently receiving: Hours (prior to increased caseload): 4.5

Any additional Aide time with this waiver? 5 Total hours after increase: Yes, aide hours will be increased to 5 hours per day from April 3 to June 7, 2018.

I hereby certify that the information provided on this application is true and correct (please initial): Pam Tesmer

Date: March 23, 2018

Telephone number (and extension): (559) 834-6140 x2316

# Attachment 3: Waiver 7-4-2018 Manteca Unified School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 3968593

Waiver Number: 7-4-2018

Active Year: 2018

Date In: 4/23/2018 10:01:12 AM

Local Education Agency: Manteca Unified School District

Address: 2271 W. Louise Ave.

Manteca, CA 95337

Start: 2/5/2018

End: 5/25/2018

Waiver Renewal: No

Waiver Topic: Special Education Program

Ed Code Title: Resource Teacher Caseload

Ed Code Section: 56362 (c)

Ed Code Authority: 56101 and 5 *CCR* Section 3100

Ed Code or *CCR* to Waive: 56101 and 5 *CCR* Section 3100

Outcome Rationale: The district is experiencing an influx of new students needing services enrolling in Manteca Unified School District due to housing growth.

Student Population: 29

City Type: Suburban

Local Board Approval Date: 4/17/2018

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Dr. Suzan Turner

Position: Director of Special Education

E-mail: [sturner@musd.net](file:///\\CDE.Cal\DATA\SEDATA\CENTRAL\Division-wide\WAIVERS\Waiver%20Items\2018\July%20SBE%20Meeting\sturner@musd.net)

Telephone: 209-858-0883

Bargaining Unit Date: 02/06/2018

Name: Manteca Educator's Association

Representative: Ericka Meadows

Title: President, MEA

Position: Support

Comments:

**California Department of Education**

**Revised 1-19-2018**

## Specific Waiver Request for Resource Specialist Caseload

**To be completed by the Administrator**

SELPA / District / COE Name: San Joaquin SELPA/Manteca Unified School District

Name of Resource Specialist: Jacqueline Lara

School / District Assignment: Great Valley/Resource (RSP)

Status: Permanent, Probation or Temporary: Permanent

Number of Students: 28

Caseload proposed number of students: 32

Full time Equivalent (FTE%): 1.0 FTE (100%)

Number of periods or hours taught by Resource Specialist: 5.5 hours daily

Average number of students per hour taught: 6

Indicate amount of Instructional Aide time hours to be provided to this resource specialist with this waiver: 9

**Note: At least 5 hours of aide time is required when the caseload is over 28, per *CCR*, Title 5, Section 3100(d)(2).**

Provide assurance that the waiver will not hinder the implementation of a student’s individualized educational program (IEP) for all students involved with the waiver or compliance with specified federal law, per *CCR*, Title 5, Section 3100(d):

Program Specialist assigned to this school site will provide on-going support to the teacher to review student performance, growth toward goals, effective instructional practices and curriculum/instructional material needs.

Explain what extraordinary fiscal or program circumstances resulted in this request for excess caseload, per *CCR*, Title 5, Section 3100(d):

There has been an influx of new students needing services enrolling in Manteca Unified School District due to housing growth.

Indicate how your plan of action to resolve conditions by the time the waiver expires or is denied by the SBE, per CCR, Title 5, Section 3100(d)(1):

Director of Special Education, in collaboration with Deputy Superintendent of Education and Director of Personnel, will analyze projected enrollment growth in the community to determine needed programs and staffing for the 2018-19 school year. This waiver is being requested from 3/5/18–5/25/18 (end of 2017-2018 school year).

Administrator/Designee Name and title: Suzan Turner, Director of Special Education

Telephone number (and extension): (209) 858-0883

Date: 3/5/18

## Specific Waiver Request for Resource Specialist Caseload

**To be completed by the Resource Specialist (Teacher)**

Name: Jacqueline Lara

Assigned at: Great Valley Elementary

Is the information in Items 1 through 12 on the attached SW \_ RSC \_ Administrator form an accurate reflection of your current assignments, personal data, FTE, your caseload, number of periods taught and average number of students? Yes or No: Yes

If not, please state where you believe these facts or numbers differ

Will all students served receive all of the services called for in their IEP’s?

Can you reasonably manage the excess caseload in relation to the programmatic condition you face, including, but not limited to, student age level, age span, and behavioral characteristics; number of curriculum levels taught at any one time or any given session, and intensity of student instructional needs? Please explain:

With an extra para, I can reasonably take care of everyone’s instructional needs.

Can you reasonably manage the excess caseload in relation to your student contact time, and other assigned duties? Please explain:

Yes. I am able to manage my time so that all my students are taken care of. My other duties assigned to me are done before and after school.

*EC* Section 56362(c) states that no resource specialist shall have a caseload which exceeds 28 students, per *CCR*, Title 5, Section 3100. Regulations allow your agency to request a waiver of the *EC*, providing certain conditions are met, and that in no circumstance may your caseload be raised to above 32 students.

Indicate your position regarding this waiver request by a check mark next to the correct line:

AGREE X to the increase in my student caseload from 28 students to not more than

32 students.

DISAGREE – to an increase in my student caseload over the 28 students. If disagreeing, provide rational below:

Indicate a check mark on the appropriate line:

I did not have a student caseload of more than 28 during the last school year. X

I did have a student caseload of more than 28 during the last school year. If yes, please respond below:

1. Did you have an approved waiver for this caseload? Yes or No:
2. Specify which months / weeks you were over caseload: From/to:
3. Other pertinent information:

I have had a student caseload of more than 28 for more than two consecutive years. Yes or No: No

Instructional Aide time currently receiving: Hours (prior to increased caseload): 5

Any additional Aide time with this waiver? Total hours after increase: 0

I hereby certify that the information provided on this application is true and correct (please initial): JL

Date: 2/6/2018

Telephone number (and extension): 209-610-6578

# Attachment 4: Waiver 8-4-2018 Manteca Unified School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 3968593

Waiver Number: 8-4-2018

Active Year: 2018

Date In: 4/23/2018 10:07:56 AM

Local Education Agency: Manteca Unified School District

Address: 2271 W. Louise Ave.

Manteca, CA 95337

Start: 2/21/2018

End: 5/25/2018

Waiver Renewal: No

Waiver Topic: Special Education Program

Ed Code Title: Resource Teacher Caseload

Ed Code Section: 56362 (c)

Ed Code Authority: 56101 and 5 *CCR* Section 3100

Ed Code or *CCR* to Waive: 56101 and 5 *CCR* Section 3100

Outcome Rationale: The district is experiencing an influx of new students needing services enrolling in Manteca Unified School District due to housing growth.

Student Population: 29

City Type: Suburban

Local Board Approval Date: 4/17/2018

Audit Penalty Yes or No: N o

Categorical Program Monitoring: No

Submitted by: Dr. Suzan Turner

Position: Director of Special Education

E-mail: [sturner@musd.net](file:///\\CDE.Cal\DATA\SEDATA\CENTRAL\Division-wide\WAIVERS\Waiver%20Items\2018\July%20SBE%20Meeting\sturner@musd.net)

Telephone: 209-858-0883

Bargaining Unit Date: 02/06/2018

Name: Manteca Educator's Association

Representative: Ericka Meadows

Title: President, MEA

Position: Support

**California Department of Education**

**Revised 1-19-2018**

## Specific Waiver Request for Resource Specialist Caseload

**To be completed by the Administrator**

SELPA / District / COE Name: Manteca Unified School District

Name of Resource Specialist: Janet Gomes

School / District Assignment: Resource (RSP)

Status: Permanent, Probation or Temporary: Permanent

Number of Students: 28

Caseload proposed number of students: 32

Full time Equivalent (FTE%): 100%

Number of periods or hours taught by Resource Specialist: 5.5 hours daily

Average number of students per hour taught: 6

Indicate amount of Instructional Aide time hours to be provided to this resource specialist with this waiver: 9

**Note: At least 5 hours of aide time is required when the caseload is over 28, per *CCR*, Title 5, Section 3100(d)(2).**

Provide assurance that the waiver will not hinder the implementation of a student’s individualized educational program (IEP) for all students involved with the waiver or compliance with specified federal law, per *CCR*, Title 5, Section 3100(d):

Program Specialist assigned to this school site will provide on-going support to the teacher to review student performance, growth toward goals, effective instructional practices and curriculum/instructional material needs.

Explain what extraordinary fiscal or program circumstances resulted in this request for excess caseload, per *CCR*, Title 5, Section 3100(d):

There has been an influx of new students needing services enrolling in Manteca Unified School District due to housing growth.

Indicate how your plan of action to resolve conditions by the time the waiver expires or is denied by the SBE, per CCR, Title 5, Section 3100(d)(1):

Director of Special Education, in collaboration with Deputy Superintendent of Education and Director of Personnel, will analyze projected enrollment growth in the community to determine needed programs and staffing for the 2018-19 school year. This waiver is being requested from 3/5/18–5/25/18 (end of 2017-2018 school year).

Administrator/Designee Name and title: Suzan Turner, Director of Special Education

Telephone number (and extension): (209) 858-0883

Date: 3/5/18

## Specific Waiver Request for Resource Specialist Caseload

**To be completed by the Resource Specialist (Teacher)**

Name: Janet Gomes

Assigned at: Woodward Elementary

Is the information in Items 1 through 12 on the attached SW \_ RSC \_ Administrator form an accurate reflection of your current assignments, personal data, FTE, your caseload, number of periods taught and average number of students? Yes or No: Yes

If not, please state where you believe these facts or numbers differ:

Will all students served receive all of the services called for in their IEP’s?

Can you reasonably manage the excess caseload in relation to the programmatic condition you face, including, but not limited to, student age level, age span, and behavioral characteristics; number of curriculum levels taught at any one time or any given session, and intensity of student instructional needs? Please explain:

Yes, all students will receive all the services called for in their IEP.

Can you reasonably manage the excess caseload in relation to your student contact time, and other assigned duties? Please explain:

Yes, my time can be managed in such a way that it does not affect my ability to manage the excess caseload and/or student contact time.

*EC* Section 56362(c) states that no resource specialist shall have a caseload which exceeds 28 students, per *CCR*, Title 5, Section 3100. Regulations allow your agency to request a waiver of the *EC*, providing certain conditions are met, and that in no circumstance may your caseload be raised to above 32 students.

Indicate your position regarding this waiver request by a check mark next to the correct line:

AGREE X to the increase in my student caseload from 28 students to not more than

32 students.

DISAGREE to an increase in my student caseload over the 28 students. If disagreeing, provide rational below:

Indicate a check mark on the appropriate line:

I did not have a student caseload of more than 28 during the last school year. X

I did have a student caseload of more than 28 during the last school year.

If yes, please respond below:

1. Did you have an approved waiver for this caseload? Yes or No:
2. Specify which months / weeks you were over caseload: From/to:
3. Other pertinent information:

I have had a student caseload of more than 28 for more than two consecutive years. Yes or No: No

Instructional Aide time currently receiving: Hours (prior to increased caseload): 5 hours

Any additional Aide time with this waiver? Total hours after increase: 6 hours

I hereby certify that the information provided on this application is true and correct (please initial): X

Date: 02/21/2018

Telephone number (and extension): 209.858.7431x54453