

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of Education March 2018 Agenda Item #W-11

## Subject

Request by **Desert Center Unified School District** to waive California *Education Code* Section 35780(a), which requires lapsation of a district with an average daily attendance of less than 11 in ninth through twelfth grades.

## Waiver Number

6-1-2018

## Type of Action

Action, Consent

## Summary of the Issue(s)

*Education Code* (*EC*) Section 35780(a) requires a county committee on school district organization (county committee) to lapse a school district when the ninth through twelfth grade average daily attendance (ADA) in schools maintained by that district falls below 11. Since the early 1980s, the Desert Center Unified School District (USD) has arranged for the adjacent Palo Verde USD to provide educational services for its ninth through twelfth grade students—thus, no high school students are educated in any school maintained by the Desert Center USD. At its May 2016 meeting, the California State Board of Education (SBE) approved waiver of *EC* Section 35780(a) to allow the Desert Center USD to avoid lapsation for the 2016–17 and the 2017–18 school-years while a permanent local solution was negotiated. An agreement between the Desert Center USD and the Palo Verde USD has been reached, but the Riverside County Committee needs time to review and act on the agreement. The Desert Center USD requests another *EC* Section 35780(a) waiver to provide the County Committee time to approve the local solution (and avoid lapsing the district for the 2018–19 school-year). The Riverside County Superintendent of Schools (County Superintendent) supports the Desert Center USD waiver request.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

## Summary of Key Issues

*EC* Section 35780 establishes the conditions necessary for a county committee to initiate lapsation proceedings for a school district. Subdivision (a) of this section requires lapsation of a school district when the ADA of students in “the school or schools maintained by the district is less than six in grades 1 through 8 or is less than 11 in grades 9 through 12.” The county committee is required to annex a lapsed district to one or more adjoining school districts.

The Desert Center USD formed in 1965 with one comprehensive high school—the Eagle Mountain High School. At that time, the largest employer in the district was the Kaiser Mine. When this mine closed in the early 1980s, the resident population (and student enrollment) plummeted. In the fall of 1983, the district began transporting its few remaining high school students to the adjacent Palo Verde USD to attend high school in that district on inter-district transfers, and converted the Eagle Mountain High School to the Eagle Mountain Elementary School. As noted above, *EC* Section 35780 requires a school district to be lapsed if the ADA of students in the schools maintained by the district is less than 11 in grades 9 through 12. Since the Desert Center USD does not have any high school ADA, it is subject to lapsation under this code section.

Although the conditions for lapsation of the Desert Center USD have existed for over 30 years, it was not until the 2015–16 school-year that the district and the County Superintendent became aware that the *EC* Section 35780 lapsation conditions apply to the district. The Desert Center USD subsequently requested that the SBE approve a permanent waiver to allow the unified district to continue serving only kindergarten through eighth grade students. The SBE, at its May 2016 meeting, did not approve a permanent waiver but did approve a waiver allowing the Desert Center USD to avoid lapsation for the 2016–17 and the 2017–18 school-years with the condition that the district work with the County Superintendent to find a permanent resolution to the issue.[[1]](#footnote-1)

The County Superintendent ordered a study to be completed to analyze the reorganization options available for the Desert Center USD. The Desert Center USD and the Palo Verde USD agree with the recommendation in the study that the best possible solution is to reorganize the Desert Center USD into a component elementary school district of the Palo Verde USD. Thus, the Palo Verde USD would be geographically expanded to include the territory of the Desert Center district, while Desert Center would be reorganized from a unified school district to an elementary school district. Under this reorganization, ninth through twelfth grade students within the geographic area of a new Desert Center Elementary School District would be residents of the Palo Verde USD.

However, it is very unlikely that the County Committee can complete all actions necessary to approve the reorganization before it must legally begin action to lapse the Desert Center USD for the 2018–19 school-year. The Desert Center USD is requesting that the SBE approve another waiver of *EC* Section 35780(a) to allow the district to operate for the 2018–19 school-year and provide an opportunity for the affected districts to transition to the reorganization that will be approved by the County Committee. The County Superintendent supports the district’s request.

The waiver request has been reviewed by the California Department of Education (CDE) and it has been determined that there was no significant public opposition to the waiver at the public hearing held by the governing board of the district. The CDE has further determined that none of the grounds specified in *EC* Section 33051, which authorize denial of a waiver, exist. The CDE recommends the SBE approve the request by the Desert Center USD to waive *EC* Section 35780(a), which requires lapsation of a district with an average daily attendance of less than 11 in ninth through twelfth grades.

**Demographic Information**: The Desert Center USD has a kindergarten through eighth grade student population of 17 and is located in a rural area of Riverside 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 33051(a), available 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, at its May 2016 meeting, approved a similar request from the Desert Center USD to allow the district to avoid lapsation for the 2016–17 and the 2017–18 school-years with the condition that the district work with the County Superintendent to find a permanent resolution. The SBE also has approved requests from other school districts to waive *EC* Section 35780(a).

## Fiscal Analysis (as appropriate)

Approval of the waiver request will not have negative fiscal effects on any local or state agency.

## Attachment(s)

* **Attachment 1**: Summary Table (1 page)
* **Attachment 2**: Desert Center Unified School District General Waiver Request  
  6-1-2018 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* Section 35780

| **Waiver Number** | **District** | **Period of Request** | **Bargaining Unit Representatives Consulted** | **Public Hearing and Board Dates** | **Advisory Committee Position** |
| --- | --- | --- | --- | --- | --- |
| **6-1-2018** | Desert Center Unified School District | **Requested:**  April 1, 2018  to  March 30, 2019  **Recommended:**  April 1, 2018  to  March 30, 2019 | The district has no bargaining unit for teachers.  California School Employees Association,  Tammie Dye-Castor  Union Representative  11/20/2017  **Support** | 12/11/2017 | School Site Council (11/22/2017)  **No objections** |

Created by California Department of Education  
January 2018

# Attachment 2: Desert Center Unified School District Waiver Request 6-1-2018

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

CD Code: 3367041

Waiver Number: 6-1-2018

Active Year: 2018

Date In: 1/8/2018 9:05:08 AM

Local Education Agency: Desert Center Unified School District

Address: 1434 Kaiser Rd.

Desert Center, CA 92239

Start: 4/1/2018

End: 3/30/2019

Waiver Renewal: Yes

Previous Waiver Number: 28-2-2016

Previous SBE Approval Date: 5/16/2016

Waiver Topic: School District Reorganization

Ed Code Title: Lapsation of a Small District

Ed Code Section: 35780(a)

Ed Code Authority: 33050-33053

*Education Code* or *CCR* to Waive: Any school district that has been organized for more than three years shall be lapsed as provided in this article if the number of registered electors in the district is less than six or if the average daily attendance of pupils in the school or schools maintained by the district is less than six in grades 1 through 8 (or is less than 11 in grades 9 through 12, except that for any unified district which has established and continues to operate at least one senior high school, the board of supervisors shall defer the lapsation of the district for one year upon a written request of the governing board of the district and written concurrence of the county committee. The board of supervisors shall make no more than three deferments.

Outcome Rationale: Desert Center is requesting a waiver to operate the 2018 -2019 school year as the district completes the redistricting process through the County Committee. Riverside County Office of Education ordered a study to be completed analyzing the options available for Desert Center to redistrict to a K – 8 school district. The School District Organization Committee, Desert Center Governing Board and Palo Verde Unified School Governing Board were provided copies of the study for review. Desert Center and Palo Verde agree with the consultant that the best possible solution is to change Desert Center Unified School District to a K- 8 district and have the 9 -12 students become students of Palo Verde Unified School District. This would be a continuation of what has been transpiring for 34 years. The Desert Center Board of Trustees has adopted a resolution to become an elementary component of Palo Verde. This resolution will be forwarded to the County Committee for approval. The need for the waiver is to give the County Committee ample time to review the resolution and allow Desert Center to operate next school year while this process is properly completed.

Student Population: 17

City Type: Rural

Public Hearing Date: 12/11/2017

Public Hearing Advertised: Displayed on website, posted in four community areas ( post office, library, community center and recreation center) as well as at the school.

Local Board Approval Date: 12/11/2017

Community Council Reviewed By: School Site Council

Community Council Reviewed Date: 11/22/2017

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Susan Scott

Position: Superintendent

E-mail: <suescott@eaglemtnschool.com>

Telephone: 760-413-2646

Fax: 760-502-6593

Bargaining Unit Date: 11/20/2017

Name: California School employees Association

Representative: Tammie Dye-Castor

Title: Union Representative

Position: Support

Comments: N/a

1. The period of request for this approved waiver was 15 months, from April 1, 2016, to July 1, 2017. [↑](#footnote-ref-1)