

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education March 2018 Agenda Item #W-14

## **Subject**

Request by four local educational agencies, under the authority of California *Education Code* Section 56101 and *California Code of Regulations,* Title 5, Section 3100, to waive California *Education Code* Section 56362(c). Approval of this waiver will allow the resource specialists to exceed the maximum caseload of 28 students by no more than four students (32 maximum).

## **Waiver Number**

Gerber Union Elementary School District 34-12-2017

Moreland Unified School District 26-11-2017

Rescue Union Elementary School District 4-1-2018

Sierra Sands Unified School District 1-1-2018

## **Type of Action**

Action, Consent

## **Summary of the Issue(s)**

Four local educational agencies (LEAs) request to increase the caseload of one resource specialist from the maximum allowed caseload of 28 students to 32 students.

## **Authority for Waiver**

California *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 condition: 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 four 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 (IEP) 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 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 the teacher agreed to the waiver, and the teacher information provided on the waiver submission is accurate.
* Contacting the union representative to confirm 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.
* Talking, as necessary, to the LEA administrator to gather additional information.

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

**Gerber Union Elementary School District (GUESD)**

The GUESD requests to increase the caseload of Irish Weiss, resource specialist teacher at Gerber 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 resource specialist program caseload of 28 students. This is the only RSP caseload waiver the GUESD submitted within the last two school years. The teacher agreed to the waiver, and will receive the required amount of instructional aide time.

Demographic Information: The GUESD has a student population of 426 and is located in a rural area in Tehama County.

**Moreland Unified School District (MUSD)**

The MUSD requests to increase the caseload of Trish Caron, a resource specialist teacher at Anderson Village 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 resource specialist program caseload of 28 students. This is the only RSP caseload waiver MUSD submitted within the last two school years. The teacher agreed to the waiver, and will receive the required amount of instructional aide time.

Demographic Information: The MUSD has a student population of 4,780 and is located in a suburban area in Santa Clara County.

**Rescue Union Elementary School District (RUESD)**

The RUESD requests to increase the caseload of Amanda Coyne, resource specialist teacher at Green Valley 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 resource specialist program caseload of 28 students. This is the only RSP caseload waiver RUESD submitted within the last two school years. The teacher agreed to the waiver, and will receive the required amount of instructional aide time.

Demographic Information: The RUESD has a student population of 3,720 and is located in a rural area in El Dorado County.

**Sierra Sands Unified School District (SSUSD)**

The SSUSD requests to increase the caseload of Judy Williamson, resource specialist teacher at Pierce 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 resource specialist program caseload of 28 students. This is the only RSP caseload waiver SSUSD submitted within the last two school years. The teacher agreed to the waiver, and will receive the required amount of instructional aide time.

Demographic Information: The SSUSD has a student population of 5,020 and is located in a rural area in Kern 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* 3100 specifically allows the SBE to approve waivers for resource specialists providing special education services to allow them to exceed the maximum caseload of 28 students by no more than four students. However, there are specific requirements in these regulations which must be met for approval, and if these 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 effective period of the waiver.
3. The waiver confirms that the students served by an affected resource specialist will receive all of the services called for in the student’s 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 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 (2 pages)
* **Attachment 2:** Gerber Union Elementary School District Waiver 34-12-2017 (4 pages) (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Moreland Unified School District Waiver 26-11-2017 (4 pages) (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 4:** Rescue Union Elementary School District Waiver 4-1-2018 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 5:** Sierra Sands Unified School District Waiver 1-1-2018 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 56101

| Waiver Number | School District, School | Name of Teachers, Agrees to Excess Caseload? | Over Statutory Caseload for More Than Two Years? | Current Aide Time,  Aide Time with Approved Waiver | Period of Request | Local Board Approval Date | Bargaining Unit, Representative, Consulted, Date, and Position |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 34-12-2017 | Gerber Union Elementary School District, Gerber Elementary School | Irish Weiss  **Yes** | No | **Current:**  5.75 hours per day  **If Approved:**  5.75 hours per day | **Requested:**  August 16, 2017  to  June 8, 2018  **Recommended:**  August 16, 2017  to  June 8, 2018 | December 18, 2017 | Gerber Teachers Association,  Donna Wabbel  President  12/12/2017  **Support** |
| 26-11-2017 | Moreland Unified School District, Anderson Village Elementary School | Trish Caron  **Yes** | No | **Current:**  27.5 hours per week  **If Approved:**  32.5 hours per week | **Requested:**  May 26, 2017 to June 16, 2017  Recommended:  May 26, 2017 to June 16, 2017 | May 31, 2017 | Moreland Teachers Association, Wendy Johnson  President  11/16/2017  **Neutral** |
| 4-1-2018 | Rescue Union Elementary School District, Green Valley Elementary School | Amanda Coyne  **Yes** | No | **Current:**  25 hours per week  **If Approved:**  25 hours per week | **Requested:**  August 29, 2017  to  May 25, 2017  **Recommended:**  August 29, 2017  to  May 25, 2017 | December 12, 2017 | Rescue Union Federation of Teachers  Laurisa Stuart  President  10/6/2017  **Neutral** |
| 1-1-2018 | Sierra Sands Unified School District, Pierce Elementary School | Judy Williamson  **Yes** | No | **Current:**  5.5 hours per day  **If Approved:**  5.5 hours per day | **Requested:**  February 1, 2018 to May 31, 2018  **Recommended:**  February 1, 2018 to May 31, 2018 | December 14, 2017 | Desert Area Teachers Association, Vanessa Vaughn  President  12/13/2017  **Support** |

Created by California Department of Education   
January 2018

# Attachment 2: Waiver 34-12-2017 Gerber Union Elementary School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 5271548

Waiver Number: 34-12-2017

Active Year: 2017

Date In: 12/20/2017 12:24:03 PM

Local Education Agency: Gerber Union Elementary School District

Address: 23014 Chard Ave.

Gerber, CA 96035

Start: 8/16/2017

End: 6/8/2018

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: 56362 (c)

Outcome Rationale: The district hired 2 Resource Specialist for the 2017-2018 school year. One of the 2 teachers declined the position a week prior to school starting. The district advertised and attempted to fill the position, but there were no qualified applicants. The district hired a substitute teacher to help accommodate the needs of the students.

Student Population: 418

City Type: Rural

Local Board Approval Date: 12/18/2017

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Jenny Montoya

Position: Superintendent/Principal

E-mail: [jmontoya@gerberschool.org](file:///\\CDE.Cal\DATA\EXECDATA\CENTRAL\SBE\2018\03-%20March%202018\Waiver%20Items\TLSB\SED\jmontoya@gerberschool.org)

Telephone: 530-385-1041 x1551

Fax: 530-385-1451

Bargaining Unit Date: 12/12/2017

Name: Gerber Teachers' Association (GTA)

Representative: Donna Wabbel

Title: GTA President

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: Gerber Elementary School District

Name of Resource Specialist\*: Irish Weiss

School / District Assignment: Gerber Elementary School

Status: Permanent, Probation or Temporary: Probation

Number of Students: 418

Caseload proposed number of students: 32

Full time Equivalent (FTE%): 1.0

Number of periods or hours taught by Resource Specialist: All day

Average number of students per hour taught: 5

Indicate amount of Instructional Aide time hours to be provided to this resource specialist with this waiver: 5.75

**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): The District has a strategic schedule that accommodates the needs of all IEP students.

Explain what extraordinary fiscal or program circumstances resulted in this request for excess caseload, per *CCR*, Title 5, Section 3100(d): The District initially hired two Resource Specialists for the 2017-2018 school year. The 2nd person hired backed out of the position the week prior to school starting. The District advertised to rehire, but did not receive any qualified applicants. The District will continue to recruit for an additional resource teacher.

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): The district has hired a substitute teacher to support our IEP students. We will also continue to advertise for a second RSP teacher.

Administrator/Designee Name and title: Jenny Montoya, Superintendent/Principal

Telephone number (and extension): 530-385-1041 (1551)

Date: 12-20-17

\*Resource Specialist as defined in EC Section 56362.5

# Attachment 3: Waiver 26-11-2017 Moreland Unified School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 4369575

Waiver Number: 26-11-2017

Active Year: 2017

Date In: 11/20/2017 3:56:44 PM

Local Education Agency: Moreland Unified School District

Address: 4711 Campbell Ave.

San Jose, CA 95130

Start: 5/26/2017

End: 6/16/2017

Waiver Renewal: No

Previous Waiver Number:

Previous SBE Approval Date:

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: 56362(c)

Outcome Rationale: At the end of the 2017-18 school year, the resource needs increased significantly as students qualified for specialized academic instruction and students with IEPs moved into the Anderson community. We were unable to hire a qualified applicant with the appropriate credential. At the beginning of the 2017-18 school year, a part-time RSP teacher also supports the RSP needs at Anderson School by working with 8 fifth grade students.

Student Population: 450

City Type: Suburban

Local Board Approval Date: 5/31/2017

Audit Penalty YN: No

Categorical Program Monitoring: NoSubmitted by: Dr. Theresa Molinelli

Position: Director Educational Services

E-mail: [tmolinelli@moreland.org](file:///\\CDE.Cal\DATA\EXECDATA\CENTRAL\SBE\2018\03-%20March%202018\Waiver%20Items\TLSB\SED\tmolinelli@moreland.org)

Telephone: 408-874-2952

Bargaining Unit Date: 11/16/2017

Name: Moreland Teacher's Association

Representative: Wendy Johnson

Title: President

Position: Neutral

**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: Moreland School District

Name of Resource Specialist\*: Patricia Caron

School / District Assignment: Anderson Village Elementary School

Status: Permanent, Probation or Temporary: Permanent

Number of Students: 28 (5/26/17)

Caseload proposed number of students: 32 (5/26/17) Please note: At the start of the 2017-18 school year, another RSP teacher was added to support the Anderson caseload. This other RSP teacher works with 8 fifth grade students at Anderson School. This additional support was added to ensure that Trish Caron does not exceed the 28 student caseload maximum during the 2017-18 school year.

Full time Equivalent (FTE%): 1.0

Number of periods or hours taught by Resource Specialist: 6 hours

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: 5 hours of weekly extra aide support on 5/26/17 when 2016-17 caseload increased past 28 students to be provided to this resource specialist with this waiver.

**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):

We believe that we can provide a quality program which meets the requirements of each IEP. The additional instructional aide time at the end of the 2016-17 school year allowed for flexible coverage of the Anderson SAI model. Additionally, the RSP teacher was given extra duty compensation to complete IEP paperwork outside of the school day.

At the beginning of the 2017-18 school year, another RSP teacher supports Anderson School in a part time basis. This other teacher works with 8 fifth grade students.

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

At the end of the 2017-18 school year, our resource needs increased significantly as students qualified for specialized academic instruction and students with IEPs moved into the Anderson community. We were unable to hire a qualified applicant with the appropriate credential. At the beginning of the 2017-18 school year, a part-time RSP teacher supports the RSP needs at Anderson School by working with 8 fifth grad students.

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):

We are actively recruiting for a new resource specialist for 2017-18 school year. We increased our resource fte by 1.0 in Moreland for the 2017-18 school year.

Administrator/Designee Name and title: Theresa Molinelli, Director

Telephone number (and extension): 408-874-2952

Date: 10-20-17

\*Resource Specialist as defined in EC Section 56362.5

# Attachment 4: Waiver 4-1-2018 Rescue Union Elementary School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 0961978

Waiver Number: 4-1-2018

Active Year: 2018

Date In: 1/4/2018 2:24:24 PM

Local Education Agency: Rescue Union Elementary School District

Address: 2390 Bass Lake Rd.

Rescue, CA 95672

Start: 8/29/2017

End: 5/25/2018

Waiver Renewal: No

Previous Waiver Number:

Previous SBE Approval Date:

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: [56362.6.c No resource specialist shall have a caseload which exceeds 28 pupils.

Outcome Rationale: We are a small district that employs 10 RSPs who are at or close to their caseload limit. We have no qualified applicants to fill the available position. Utilizing a waiver provides better student services than employing a temporary substitute in this position.

Student Population: 32

City Type: Rural

Local Board Approval Date: 12/12/2017

Audit Penalty Yes or No: N o

Categorical Program Monitoring: No

Submitted by: Ms. Candice Harris

Position: Director, Human Resources

E-mail: [charris@rescueusd.org](file:///\\CDE.Cal\DATA\EXECDATA\CENTRAL\SBE\2018\03-%20March%202018\Waiver%20Items\TLSB\SED\charris@rescueusd.org)

Telephone: 530-672-4814

Bargaining Unit Date: 10/06/2017

Name: Rescue Union Federation of Teachers

Representative: Laurisa Stuart

Title: RUFT President

Position: Neutral

# Attachment 5: Waiver 1-1-2018 Sierra Sands Unified School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 1573742

Waiver Number: 1-1-2018

Active Year: 2018

Date In: 1/2/2018 10:53:31 AM

Local Education Agency: Sierra Sands Unified School District

Address: 113 West Felspar Ave.

Ridgecrest, CA 93555

Start: 2/1/2018

End: 5/31/2018

Waiver Renewal: No

Previous Waiver Number:

Previous SBE Approval Date:

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: 56362 (c)

Outcome Rationale: Pierce Elementary School had an unexpected influx of students having an IEP that required Resource Specialist Services move in to their demographic zone at the beginning of the 2017-18 school year. Additional students who have been referred for assessment will take the caseload past the limit of 28 if they all qualify for services.

Student Population: 5061

City Type: Rural

Local Board Approval Date: 12/14/2017

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Elaine Littleton

Position: Executive Director Sierra Sands SELPA

E-mail: [elittleton@ssusd.org](file:///\\CDE.Cal\DATA\EXECDATA\CENTRAL\SBE\2018\03-%20March%202018\Waiver%20Items\TLSB\SED\elittleton@ssusd.org)

Telephone: 760-499-1703

Fax: 760-446-1394

Bargaining Unit Date: 12/13/2017

Name: Desert Area Teachers Association

Representative: Vanessa Vaughn

Title: President

Position: Support