

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education November 2018 AgendaItem #W-01

## Subject

Request by **Castaic Union School District** under the authority of California *Education Code* Section 41382, to waive portions of *Education* *Code* Section 41376(a), (c), and (d), relating to class size penalties for grades one through three. Allowable class size average is 30 to one with no class larger than 32 for grades one to three. The district wishes to increase its average class size to 31 to one with no individual class larger than 33 for grades one to three.

## Waiver Number

9-5-2018

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Castaic Union Elementary School District is requesting a waiver of portions of California *Education Code* (*EC*) Section 41376(a), (c), and (d) relating to class size penalties for grades one through three for fiscal year 2017–18 and 2018-19.

## Authority for Waiver

*EC* Section 41382

## Recommendation

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

The California Department of Education (CDE) recommends the California State Board of Education (SBE) approve the request by the district to waive the class size penalties for grades one through three for the recommended period shown on Attachment 1, provided the overall average and individual class size average is not greater than the CDE-recommended level shown on Attachment 1. Should the district exceed these conditions, the class size penalty will be applied per statute.

The CDE also recommends that the SBE find that the class size penalty provisions of *EC* sections 41376 and 41378 will, if not waived, prevent the district from developing more effective educational programs to improve instruction in reading and mathematics for students in the classes specified in the district’s application.

## Summary of Key Issues

There are two different requirements regarding kindergarten through grade three (K–3) class sizes. The first requirement has been in law since the mid-1960s and is the subject of this waiver. This law requires the CDE to apply a financial class size penalty to a school district’s Local Control Funding Formula (LCFF) funding if any of the following occur:

* A single kindergarten class exceeds an average enrollment of 33.
* The average enrollment of all kindergarten classes in the district exceeds 31.
* A single class in grades one through three exceeds an average enrollment of 32.
* The average enrollment of all grades one through three classes in the district exceeds 30.

School districts report their average class enrollment information to the CDE in the spring of the applicable year. If a school district does not meet the requirements, the CDE reduces the district’s final payment for the year. Generally, the penalty is equal to a loss of all funding for enrollment above 31 in kindergarten classes or 30 in grades one through three classes. *EC* Section 41382 allows the SBE to waive this penalty if the associated class size requirements prevent the school and school district from developing more effective education programs to improve instruction in reading and mathematics.

The second requirement, which began in fiscal year 2013–14, is related to the K–3 grade-span adjustment (GSA) that increases the LCFF target funding for the

K–3 grade span by 10.4 percent. The LCFF target represents what a school district would receive if the state had the resources to fully fund LCFF. In order to receive this adjustment, school districts must meet one of the following conditions at each school site:

* If a school site’s average class enrollment in K–3 was more than 24 pupils in the prior year, make progress toward maintaining at that school site an average class enrollment in K–3 of not more than 24 pupils.
* If a school site’s average class enrollment in K–3 was 24 pupils or less in the prior year, maintain at that school site an average class enrollment in K–3 of not more than 24 pupils.
* Agree to a collectively-bargained alternative to the statutory K–3 GSA requirements.

If an independent auditor finds that a school district did not meet one of the conditions, the CDE must retroactively remove the K–3 GSA from the district’s funding. *EC* Section 42238.02(d)(3)(E) does not allow the SBE to waive the adjustment.

These two statutes operate independently. It is possible that a district could comply with the ostensibly more restrictive conditions for the K–3 GSA and be out of compliance with the K–3 class size penalty statutes for several reasons. For instance, the district could have negotiated an alternative to the K–3 GSA class size average that exceeds the class size penalty levels. Similarly, districts could be meeting the conditions for the K–3 GSA by making progress towards achieving an average class size of 24 at a school site, but still exceed the levels that trigger a class size penalty.

In September 2014, the SBE adopted Policy #14-01, which requires districts to provide certain types of information with their waiver requests commencing with fiscal year 2014–15. The district’s waiver included the information required by the SBE’s Policy #14-01. The district states that without an approved waiver, the core reading and math programs will be compromised by the three multilevel classes that would need to be created to avoid the penalty. Allowable class size average for grades one through three is 30 to one with no individual class larger than 32.

In 2017–18, the district had one class that exceeded the maximum individual class size of 32 students by one student. The district’s average class size in grades one through three was 27. The district has experienced declining enrollment since fiscal year 2004–05 and has been making reductions in teaching staff in order to balance their budget. The district received a negative certification on its 2015–16 First Interim Report indicating that it would not meet its fiscal obligations in the current or subsequent fiscal year.

Rather than combining grade levels to meet the maximum class size, the district’s goal is to provide single grade level classrooms with highly qualified teachers and more focused instruction. The district incurred a penalty of $34,836 for 2017–18 for exceeding the allowable class size. If the waiver is granted, it would eliminate the penalty. In the 2018–19 fiscal year, the district expects a further decline in enrollment, a need to reduce staffing, and a continued overage in class size. The district is working toward a return to the statutory maximum in 2019–20. The district’s Memorandum of Understanding with the teacher’s union allows for an alternative maximum class size average of 34 for the purposes of receiving funding for the grade span adjustment under the LCFF.

**Demographic Information:** Castaic Union Elementary School District has a student population of 2,089 and is located in a suburban area of Los Angeles County.

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

Before September 2009, no class size penalty waivers had been submitted since 1999. Due to the state budget crisis and resulting significant reduction in funding, the SBE began receiving a large number of waiver requests beginning in 2009. As a result, the SBE approved all class size penalty waiver requests through fiscal year 2013–14. In September 2014, the SBE adopted a policy for the type of information districts should provide when submitting a class size penalty waiver request for fiscal years beginning with 2014–15. The policy is available at <http://www.cde.ca.gov/re/lr/wr/waiverpolicies.asp>, under Class Size Penalties for Grades Kindergarten and Grades One through Three.

## Fiscal Analysis (as appropriate)

See Attachment 1 for actual/estimated penalty amounts should the waiver request be denied.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Castaic Union School District Specific Waiver Request 9-5-2018 (4 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 41376

| **Waiver Number** | **District** | **Period of Request** | **District’s Request** | **CDE Recommendation** | **Local Board and Public Hearing Approval** | **Penalty Without Waiver** | **Previous Waivers** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 9-5-2018 | Castaic Union School District | **Requested:** July 1, 2017, to June 29, 2019**Recommended:** July 1, 2017, to June 29, 2019 | Overall average 31; no class larger than 33 | Overall average 31; no class larger than 33 | Local Board ApprovalMay 10, 2018 | $34,836 each year | N/A |

Created by California Department of Education
July 2018

# Attachment 2: Castaic Union School District Specific Waiver Request 9-5-2018

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 1964345

Waiver Number: 9-5-2018

Active Year: 2018

Date In: 5/11/2018 2:27:27 PM

Local Education Agency: Castaic Union School District

Address: 28131 Livingston Ave.

Valencia, CA 91355

Start: 7/1/2017

End: 6/29/2019

Waiver Renewal: No

Waiver Topic: Class Size Penalties

Ed Code Title: Over Limit on Grades 1-3

Ed Code Section: portions of 41376 (a) (c) and (d)

Ed Code Authority: 41382

Ed Code or *CCR* to Waive: *EC* 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: [(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.] (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above. [(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.]

Outcome Rationale: We have experienced declining enrollment since 2004-2005 and are in recovering from a fiscal crisis (negative certification) in 2015-2016. We are projecting a reduction of FTEs in future years as our enrollment continues to decline and are faced with the challenge of balancing class size with staffing. Our overall district wide average is at or below 30 but in grades 1-3 we have one or more classes in excess of 32 students, for a total overage of 6 students. We anticipate this overage to continue in the 2018-2019 school year.

1. In the 2017-2018 our district is over the class size threshold by 6 students. Those 6 students are in grades 2 and 3 and across 2 schools. In order to meet the threshold we would have to either hire 3 new teachers or create 3 multilevel classes. The district has been in declining enrollment for 13 years and that is projected to continue until 2020-2021. We have been reducing staff either through attrition or layoffs over the past several years. We were projecting a layoff of 3 FTE in 2018-2019 but have reduced that to 2 FTE in an effort to address class size and avoid additional combination classes.

2. The district’s LCAP states “All CUSD students will learn from appropriately credentialed teachers working in their authorized areas of instruction.” By maintaining the current class sizes in grades K-3 while working to reduce/eliminate combination classes, the district is able to meet the instructional minutes requirements while providing quality instruction and standards aligned core materials to each student.

3. The district’s goal is to have single grade level classrooms with highly qualified teachers. In order to achieve this while in declining enrollment we require increased class sizes in order to avoid multilevel classrooms. Through collaborative school site scheduling, grade levels work together to address the educational needs of their students through grouping by ability for core subjects and the use of technology for whole group work. This is difficult with multilevel classes and lessens the amount of time available for focused instruction.

4. For the 2018-2019 school year the district has increased the staffing level by 1 FTE to work toward returning to the statutory levels.

5. The class size provisions would negatively impact the reading and math instructions by forcing the creation of 3 multilevel classes at 2 different schools. In multilevel classrooms teachers are forced to teach 2 different sets of grade level standards in both math and language arts. Students in single grade classes in general receive more focused instruction because teachers have only one set of standards to address.

6. The estimated financial impact of the class size penalty is $41,000. The waiver would allow the district to apply the $41,000 towards the salary of the 1 FTE we are retaining in order to address the overage.

7. We are requesting a district wide average of 32 students and maximum class size of 32 students for grades 1-3 in the 2017-2018 and 2018-2019 school years.

8. The exclusive representative for our teaching staff is not opposed to the increased class sizes. We have an MOU in place through 2018-2019 for a maximum average class-size enrollment of 34 students. Additionally, the District pays class size overages for students is excess of 30 students in grades TK-2 and 32 students in grades 3-5.

Yes. A principal may recommend to the governing board or the governing board of the school district may adopt a resolution determining that an exemption should be granted from any of the provisions of Section 41376 and 41378, with respect to such core classes on the basis that such provisions prevent the school and school district from developing more effective education programs to improve instruction in reading and mathematics. (Required see *EC* 41382) A potential penalty of $41000 could be incurred by the district without this waiver.

Student Population: 2089

City Type: Suburban

Local Board Approval Date: 5/10/2018

Audit Penalty Yes or No: No

Categorical Program Monitoring: NoSubmitted by: Ms. Julia Phippen

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