

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Child Specific NPA or NPS Certification

# California State Board of EducationSeptember 2018 AgendaItem #W-11

## Subject

Request by **Chico Unified 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, White River Academylocated in Delta, Utah, to provide services to one student with disabilities.

## Waiver Number

20-5-2018

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Chico Unified School District (CUSD) contacted six out-of-state certified nonpublic-nonsectarian schools (NPSs) having residential treatment facilities to offer a free appropriate public education (FAPE) to a student diagnosed with emotional disturbance (ED) and pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections (PANDAS). Of these six NPSs, five denied admission to their program due to concerns about their ability to accommodate a student diagnosed with PANDAS, and one did not have a placement available to meet the timing constraints of the student’s placement.

The White River Academy (WRA), a non-certified nonpublic school/ residential treatment center (RTC) located in Delta, Utah accepted the student into their program, and the individualized educational program (IEP) team agreed the WRA is able to meet the student’s comprehensive, unique needs.

The CUSD requests to waive California *Education Code* Section 56366(d), the requirement for state certification, to allow the use of California’s state and federal special education funds for the placement of this student at WRA.

## Recommendation

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

As the CUSD has submitted all required documents as part of its waiver request, the California Department of Education recommends approval of this waiver, with conditions, for the period requested: April 3, 2018, through June 30, 2019. This recommendation for approval is contingent upon the following conditions:

* The CUSD will consult with the WRA liaison monthly to monitor the provision of services, and review the student’s progress via email and/or phone calls, and the review of program data. Program data will include the progress on IEP goals, school attendance, work completion rate, grades, active participation in the therapeutic program, and incident/safety reports.
* The CUSD will contact the student and the student’s parents monthly to discuss treatment progress and address concerns.
* The CUSD will schedule IEP meetings at a minimum of every four months to review program data, the student’s progress, both academically and therapeutically, and determine any necessary changes in the student’s academic and/or therapeutic program.
* The CUSD will consult and coordinate with the Butte Special Education Local Plan Area to review the student placement on-site at least three times while the student is attending WRA.

## Summary of Key Issues

The CUSD contacted six out-of-state certified NPSs to provide FAPE to a student diagnosed with ED and PANDAS. The student was denied admission to NPSs that may have otherwise accepted the student due to the student’s diagnosis of PANDAS. The WRA, a non-certified nonpublic school/ RTC in Delta, UT, accepted the student into their program, and can meet the student’s unique needs.

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 CUSD with federal laws and regulations. In addition, before contracting with the nonpublic, nonsectarian school outside of this state, CUSD documented its efforts to utilize public schools and to identify an appropriate certified NPS or agency program, or both, within the state.

**Demographic Information:** The CUSD has a student population of 12,682 and is located in a small city in Butte 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 13 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, CUSD may utilize state and federal special education funds for the placement of this student at WRA. If this waiver is denied, CUSD may utilize only local funds to support the student’s placement at WRA.

The yearly cost for placement at WRA for this student is $74,596. This cost is based on 180 days of regular school year instruction, 20 days of extended year instruction, and 365 days of room and board.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Chico Unified School District Specific Waiver Request
20-5-2018 (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 |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 20-5-2018 | Chico Unified School District (CUSD) | **Requested:** April 3, 2018, to June 30, 2019**Recommended:** April 3, 2018, to June 30, 2019 | To waive nonpublic-nonsectarian school (NPS) certification to allow CUSD to use state and federal special education funds for the placement of a student in an uncertified out-of-state NPS/ residential treatment center | Approval with conditions for the period requested | April 4, 2018 | The CUSD 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

June 2018

# Attachment 2: Waiver 20-5-2018 Chico Unified School District

**California Department of Education**

**WAIVER SUBMISSION - Specific**

CD Code: 0461424

Waiver Number: 20-5-2018

Active Year: 2018

Date In: 5/24/2018 9:36:38 AM

Local Education Agency: Chico Unified School District

Address: 1163 East Seventh St.

Chico, CA 95928

Start: 4/3/2018

End: 6/30/2019

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

*Education Code* or *CCR* to Waive: [(a) A nonpublic, nonsectarian school or agency that seeks certification shall file an application with the Superintendent on forms provided by the department, and shall include all of the following information on the application:

(1) A description of the special education and designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian school certification.

(2) A description of the designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian agency certification.

(3) A list of appropriately qualified staff, a description of the credential, license, or registration that qualifies each staff member rendering special education or designated instruction and services to do so, and copies of their credentials, licenses, or certificates of registration with the appropriate state or national organization that has established standards for the service rendered.

(4) An annual operating budget.

(5) Affidavits and assurances necessary to comply with all applicable federal, state, and local laws and regulations that include criminal record summaries required of all nonpublic, nonsectarian school or agency personnel having contact with minor children under Section 44237.]

Outcome Rationale: Butte County Office of Education contacted in-state nonpublic schools and nonpublic school agencies, and residential treatment centers to offer FAPE to one student who has been determined to have emotional/mental health needs. However, none of these placement options would accept the student, or could not meet the student's comprehensive, unique needs. The uncertified out-of-state nonpublic school, White River Academy, located in Delta, Utah, accepted the student

Student Population: 12682

City Type: Small

Public Hearing Date: 4/4/2018

Public Hearing Advertised: Electronic and public posting

Local Board Approval Date: 4/4/2018

Community Council Reviewed By: CUSD Board of Education

Community Council Reviewed Date: 4/4/2018

Community Council Objection: No

Community Council Objection Explanation: None

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Diane Olsen

Position: Director

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