

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education January 2018 AgendaItem #W-05

## Subject

Request by **Cutler-Orosi Joint Unified School District** under the authority of the California *Education Code* Section 46206(a), to waive *Education Code* Section 46200, the audit penalty for offering insufficient instructional days during the 2017–18 school year.

## Waiver Number

15-10-2018

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Cutler-Orosi Joint Unified School District (COJUSD) is requesting that the California State Board of Education (SBE) waive the instructional time requirement audit penalty. The COJUSD was short one instructional day for the 2017–18 school year. Per *EC* Section 46206(a), the SBE may waive the fiscal penalties for a school district, county office of education, or charter school that fails to maintain the prescribed minimum length of instruction, upon the condition that the school or schools in which the days were lost maintain days of instruction equal to those lost, in addition to the minimum amount required, for twice the number of years that it failed to maintain the required minimum length of time.

## Authority for Waiver

*EC* Section 46206

**Recommendation**

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

The California Department of Education (CDE) recommends the SBE approve this waiver on the condition that COJUSD maintains increased instructional days of at least the amount required by law plus the one day COJUSD failed to offer for a period of two years beginning in 2018–19 through 2019–20 and COJUSD reports the annual instructional days offered in their annual audit report. If these conditions are not met, the penalty will be reinstated.

**Summary of Key Issues**

During an audit of instructional time for 2017–18, it was discovered that Orosi High School failed to offer the required 180 days of instruction by one day. Orosi High School was short one day of instruction because one day fell below the minimum school day requirement in a high school of 240 minutes and as a result could not be counted as a day of instruction offered in the school year.

COJUSD would like to use school years 2018–19 and 2019–20 to make up the shortfall for the instructional day. COJUSD submitted documentation showing Orosi High School will offer one additional day, for a total of 181 instructional days, during the 2018–19 and 2019–20 school years to comply with the terms of the waiver.

**Demographic Information:**

COJUSD has a student population of 4,126 and is located in a rural area in Tulare County.

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

The SBE has approved similar requests with conditions. *EC* Section 46206 authorizes waivers to be granted for fiscal penalties due to a shortfall in instructional time. A waiver may be granted upon the condition that the school, or schools, in which the days were lost, maintain days of instruction equal to those lost, in addition to the minimum amount required for twice the number of years that it failed to maintain the required minimum length of time.

**Fiscal Analysis**

The COJUSD 2017–18 penalty amount of $68,195 is calculated as follows (some differences due to rounding):

* The average daily attendance of 1,146.56 for all students in grades nine through twelve multiplied by the district’s funding rate of $10,620.99 (transition rate) is equal to the district’s Local Control Funding Formula (LCFF) apportionment of $12,177,602.
* The affected LCFF apportionment of $12,177,602 multiplied by the penalty rate of 0.0056 and the number of days short is equal to the penalty amount of $68,195.

**Attachment(s)**

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** COJUSD Specific Waiver Request 15-10-2018 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 46200

| **Waiver Number** | **District** | **Period of Request** | **District’s Request** | **CDE Recommended Action** | **Bargaining Unit Representatives Consulted, Date, and Position** | **Local Board and Public Hearing Approval** | **Penalty Without Waiver** | **Previous Waivers** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 15-10-2018 | Cutler-Orosi Joint Unified School District | **Requested:**August 15, 2017, to June 4, 2020**Recommended:**July 1, 2017, to June 30, 2018 | District requests waiving EC Section 46200 to avoid the audit penalty in exchange for offering increased instructional days in 2018–19 and 2019–20, consistent with EC Section 46206. | **Approval** of waiver, consistent with *EC* Section 46206 with the following conditions:(1) District maintains increased instructional days at Orosi High School of at least the amount required by law plus 1 day for a period of two years beginning in 2018–19 through 2019–20, and (2) District reports the annual instructional days offered at Orosi High School in its annual audit report. | Andrew Rominger, PresidentCutler–Orosi Unified Teachers AssociationSeptember 18, 2018**Support** | Local Board Approval October 15, 2018 | $68,195 | None |

Created by California Department of Education

November 2018

# Attachment 2: Cutler-Orosi Joint Unified School District Specific Waiver Request 15-10-2018

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 5471860

Waiver Number: 15-10-2018

Active Year: 2018

Date In: 10/19/2018 10:50:40 AM

Local Education Agency: Cutler-Orosi Joint Unified School District

Address: 12623 Avenue 416

Orosi, CA 93647

Start: 8/15/2017

End: 6/4/2020

Waiver Renewal: No

Waiver Topic: Instructional Time Requirement Audit Penalty

Ed Code Title: Fallen Below 180 Days

Ed Code Section: 46141, 46142, 46200, & 41420

Ed Code Authority: 46206

Ed Code or *CCR* to Waive: [For a school district that received an apportionment pursuant to subdivision (a) of this section, as it read on January 1, 2013, and that offers less than 180 days of instruction or, in multitrack year-round schools, fewer than the number of days required in subdivision (a) of this section, as it read on January 1, 2013, in the 2013-14 fiscal year, or any fiscal year thereafter, the Superintendent shall withhold from the school district's local control funding formula grant apportionment pursuant to Section 42238.02 , as implemented by Section 42238.03 , for the average daily attendance of each affected grade level the sum of 0.0056 multiplied by that apportionment for each day less than what was required in subdivision (a) of this section, as it read on January 1, 2013, up to a maximum of five days.]

Outcome Rationale: In 2017-2018, Orosi High School had a minimum day on the last day of school that did not meet the 240 minutes requirement. In addition, the average between the least two days of school did not meet the 240 minute requirement therefore, the last day of school did not count as an instructional day and caused the calendar year to only have 179 days of instruction. The student population for Orosi High School was 1117.

Student Population: 4126

City Type: Rural

Local Board Approval Date: 10/15/2018

Audit Penalty Yes or No: Yes

Categorical Program Monitoring: No

Submitted by: Ms. Gabriela Guzman

Position: Director of Student Services & Categorical Program

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Bargaining Unit Date: 09/18/2018

Name: Cutler-Orosi Unified Teachers Association

Representative: Andrew Rominger

Title: Union President and Teacher

Position: Support