

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education May 2019 AgendaItem #W-12

## Subject

Request by two local educational agenciesto waive California *Education Code* Section 56195.1 (a) regarding size and scope requirements of a special education local plan area.

## Waiver Number

* Hacienda La Puente Unified School District 3-2-2019
* Rowland Unified School District 16-2-2019

## Type of Action

Action

## Summary of the Issue(s)

The Hacienda La Puente Unified School District (HLPUSD) and the Rowland Unified School District (RUSD) currently make up the Puente Hills Service Area Special Education Local Plan Area (SELPA). Both local educational agencies (LEAs) are proposing to dissolve the Puente Hills Service Area SELPA and each pursue single-district SELPA status. Staff of the Special Education Division reviewed the request and determined HLPUSD and RUSD do not meet the size and scope requirements set forth by the State Board of Education (SBE). These items are being brought before the SBE to determine whether to waive size and scope requirements to allow both the HLPUSD and the RUSD to operate as single-district SELPAs.

## Authority for Waiver

*Education Code (EC)* Section 33050

## Recommendation

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

The CDE recommends the SBE approve, with conditions, the requests by HLPUSD and RUSD to waive the size and scope requirement to qualify as single district SELPAs, pursuant to *EC* Section 56195.1. The SBE is authorized under *EC* Section 56100(b) to adopt criteria and procedures for the review and approval of the special education local plans. In 1983, the SBE adopted size and scope requirements for determining the efficacy of local plans submitted by SELPAs to the CDE, pursuant to *EC.*

Neither HLPUSD nor RUSD meet the size and scope requirements to be considered single district SELPAs; however, under current policies adopted by SBE for determining the efficacy of local plans submitted by SELPAs to the CDE the CDE has no basis for denial*.*

## Summary of Key Issues

**Background**

California Master Plan for Special Education

* Adopted by the SBE (1974)
* Assembly Bill 4040 (Chapter 1532, Statutes of 1974) implemented a pilot project of the Master Plan in no more than 10 local comprehensive plan areas during fiscal years (FYs) 1975–76, 1976–77, and 1977–78. The pilot regions included single district schools, multiple district schools, and the county office of education (COE).
* AB 1250 (Chapter 1247, Statutes of 1977) was based on the results obtained through the pilot program, and called for a systematic phase-in of the Master Plan statewide.
* Senate Bill (SB)1870 (Chapter 797, Statutes of 1980):
	+ Implemented the Master Plan statewide
	+ Brought California into compliance with Public Law (P.L.) 94–142 (eligibility for federal funding), better known as the Individuals with Disabilities Education Act (IDEA) which was enacted in 1975
	+ Required special education service regions (SESRs) to develop a local plan
	+ Revised the role of the COE so that all local comprehensive plans within the county go through the COE to either approve or disapprove based on the described ability of the plan to ensure special education services are provided to all individuals with exceptional needs
* SB 1345 (Chapter 1201, Statutes of 1982) revised SB 1870 to rename SESRs to SELPAs
* The SBE adopted size and scope requirements for SELPAs (1983)

AB 602 (Chapter 854, Statutes of 1997)

* Established annual budget and service plans that are adopted at SELPA public hearings.

**Analysis**

The HLPUSD and the RUSD currently make up the Puente Hills Service Area SELPA, located in Los Angeles County. The RUSD sent notification, dated June 25, 2018, to the CDE, Los Angeles County Office of Education (LACOE), and HLPUSD of their intent to explore alternate options to the current SELPA configuration, including, but not limited to, becoming a single-district SELPA effective July 1, 2019. The HLPUSD sent similar notification dated June 27, 2018, to the LACOE, but did not submit notification to the CDE until August 10, 2018. The HLPUSD filed an SBE waiver to address their failure to meet the one-year notification requirements which was approved at the March 2019 SBE meeting (Item W-13).

The review of each district’s size and scope, as adopted by the SBE, resulted in the following determinations:

* According to the totals populated by Dataquest for 2017–18, the HLPUSD had 18,438 students across 21.219 square miles and therefore had a student population density of 866 students per square mile, defining it as a metropolitan area. The HLPUSD does not meet the SBE’s size and scope requirements (adopted in November 1983) for a metropolitan area single-district SELPA (kindergarten through grade twelve and 30,000 or more pupils). Further, the district has seen an annual decline in enrollment since 2003–04, dropping gradually from its highest enrollment at 25,499 to its lowest enrollment at 18,438.
* According to the totals populated by Dataquest for 2017–18, the RUSD had 14,132 students across 24.593 square miles and therefore had a student population density of 575 students per square mile, defining it as a metropolitan area. The RUSD does not meet the SBE’s size and scope requirements (adopted in November 1983) for a metropolitan area single-district SELPA (kindergarten through grade twelve and 30,000 or more pupils). Further, the district has seen an annual decline in enrollment since 1999–00, dropping gradually from its highest enrollment at 19,083 to its lowest enrollment at 14,132.

As current policies provide very few and specific criteria beyond size and scope for the CDE to evaluate the efficacy of local plans submitted and to recommend approval or denial the CDE wanted to provide context to the SBE for the two LEAs seeking waivers that may be considered when evaluating their ability to ensure special education and services are provided to all students with disabilities (SWD). The CDE looked at both state and federal data to provide additional information.

For state performance level categories, the CDE looked at the students with disabilities SWD student-group performance levels as measured by the California School Dashboard for 2018 (Dashboard). Our analysis of these data indicate HLPUSD’s SWD are performing in the yellow, orange, and red categories for graduation, chronic absenteeism, and suspension rates as well as English Language Arts (ELA), Mathematics (Math) and College/Career (CCI) indicators. For RUSD, the Dashboard data indicates SWD are performing in the yellow and red categories for graduation, chronic absenteeism, and graduation rates as well as ELA, Math, and CCI.

For federal data, the CDE looked at the Special Education Annual Performance Report (APR) Measures for the years 2015–16, 2016–17, and 2017–18. The APR is required for each LEA under the Individuals with Disabilities Education Act (IDEA) and reported on an annual basis to the United States Department of Education (USDOE), Office of Special Education Programs (OSEP). Each year, 14 indicators and targets are used to measure the performance and compliance status of each LEA as required by IDEA.

For the HLPUSD most APR indicator targets were met or improvement was shown, however, they have shown decline in graduation, preschool assessments and disproportionality indicators and targets. Further, HLPUSD has not met indicator targets around ELA and Math assessments, least restrictive environment and post-school outcomes.

For RUSD most indicator targets were met or improvement was shown, however, they have shown decline in Math, least restrictive environment and disproportionality indicators and targets. Further, RUSD has not met indicators or targets for graduation and preschool assessments.

If the SBE supports the CDE recommendation to approve the waiver, the CDE requests the approval be made with the following conditions:

* Upon approval, the CDE will require, at a minimum, final copies of the following local plan components no later than June 30, 2019:
* *EC* Section 56205 (b)(1–2) currently requires that each local plan submitted to the CDE shall contain an annual budget plan and an annual service plan. The HLPUSD and the RUSD must submit a local plan with all required components. Both the HLPUSD and the RUSD have submitted draft copies of these annual plans, which must be adopted at a public hearing held by the SELPA prior to approval by the CDE.
* Per the requirements of implementing 17 *California Code of Regulations* sections 52000–52175 pertaining to the provision of services for infants and toddlers with special needs, the local plan should include a current Interagency Agreement for Part C, Early Intervening Services. This interagency agreement must describe the policies and procedures related to the implementation of California’s Early Intervening Services and must contain the components necessary to ensure effective cooperation and coordination between the SELPA and the regional center. The specific requirements of this interagency agreement are described in 17 *CCR* Section 52140. Both HLPUSD and RUSD have submitted unsigned draft copies of this agreement. The local plans for HLPUSD and RUSD must include a complete and current Interagency Agreement for Part C, Early Intervening Services prior to approval by the CDE.

**Demographic Information:** The HLPUSD has a student population of 18,438 and is located in an urban area in Los Angeles County.

The RUSD has a student population of 14,132 and is located in an urban area in Los Angeles 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** <https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051>.

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

The SBE is authorized under *EC* Section 56100 (b) to adopt criteria and procedures for the review and approval of the special education local plans. In 1983, the SBE adopted size and scope requirements for determining the efficacy of local plans submitted by SELPAs to the CDE, pursuant to *EC* Section 56195.1 (a). (See the CDE Web page at <https://www.cde.ca.gov/sp/se/lr/szscpselpa.asp>.)

Special education local plans are submitted for approval to the CDE who reviews the plans and recommends approval or disapproval to the SBE. In January 2000, the SBE voted to approve the criteria for the development and approval (*EC* Section 56100 (b)) of the local plans, and delegate the actual approval of SELPA local plans to the CDE.

Most recently, in January of 2017, a waiver of size and scope was presented to the SBE to allow Ontario-Montclair School District (OMSD) to split from West End SELPA and pursue single-district SELPA status. (See Waiver Item W-13 on the CDE Web page at <https://www.cde.ca.gov/be/ag/ag/documents/agenda201701.pdf>.)

The specifics of this waiver were unique in that the West End SELPA had voted to terminate OMSD from their governance structure, effective June 30, 2017. As opposed to seeking membership in an alternate SELPA, OMSD chose to pursue single-district SELPA status. They did not meet size and scope standards, both in enrollment and in grade range, and their proposed local plan was denied by the CDE based on these factors. However, based on their unique circumstances, CDE staff recommended approval of the waiver of size and scope for a period of two years with conditions.

A motion was made by a member of the SBE to approve the waiver requests with the conditions for a period of two years and that the CDE report back on any compliance issues. The motion was approved by all members.

A similar item was presented to the SBE in July 2014. The ABC Unified School District (ABCUSD) and Norwalk-La Mirada Unified School District (NLMUSD) comprised the Norwalk-La Mirada/ABC Unified SELPA located in Los Angeles County. Both Districts submitted requests to the CDE to become single-district SELPAs. (See Item W-17 on the CDE Web page at <https://www.cde.ca.gov/be/ag/ag/documents/agenda201407.pdf>.) The CDE staff determined that neither district met the SBE’s size and scope requirements. The ABCUSD and the NLMUSD then requested waivers to the size and scope requirements. A motion was made by a member of the SBE to approve the waiver requests with the condition that the waivers be reviewed in one year and that the CDE report back on any compliance issues. The motion was approved by all members.

## Fiscal Analysis (as appropriate)

The following calculations are based upon funding allocations to Puente Hills Service Area SELPA from FY 2018–19 as it is the most current year funding information available.

The CDE allocates state special education funds to SELPAs on the basis of AB 602. The FY 2018–19 AB 602 allocation for the Puente Hills Service Area SELPA was $15,987,539. If the HLPUSD and RUSD had been their own SELPAs, the allocation for HLPUSD would have been approximately $9,682,654 and the allocation for RUSD would have been approximately $7,304,886.

The CDE grants federal IDEA funds to SELPAs based on the federally required formula. The FY 2018–19 IDEA flow through grants for the Puente Hills Service Area SELPA was approximately $6,543,147. If the HLPUSD and RUSD had been their own SELPAs, the IDEA grant awards for HLPUSD would have been approximately $3,696,928 and the allocations for RUSD would have been approximately $2,814,132.

In addition, the Puente Hills Service Area SELPA receives annual IDEA Part C funding in the amount of $145,999 to serve solely-low incidence (SLI) infants and toddlers for all current district members of the SELPA. If HLPUSD and RUSD were to become single- district SELPAs, they would receive standard funding calculated based on their total funded SLI infant counts in proportion to the total funded SLI infant counts of the current SELPA structure. However, the Part C funding is a set amount and the new SELPAs will not receive any additional funding beyond what has already been allocated to the existing SELPA.

## Attachment(s)

* **Attachment 1:** SELPA Size and Scope Requirement Summary Table (2 pages).
* **Attachment 2:** Hacienda La Puente Unified School District Waiver 3-2-2019 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Rowland Unified School District Waiver 16-2-2019 (3 pages). (Original waiver request is signed and on file in the Waiver Office

# Attachment 1: Summary Table

California *Education Code (EC)* Section 56195.1

| Waiver Number | District | Period of Request | District’s Request | CDE Recommends | Bargaining Unit Representatives Consulted, Date and Position | Local Board and Public Hearing Approval | Penalty Without Waiver |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 3-2-2019 | Hacienda La Puente Unified School District | **Requested:**July 1, 2019, through June 30, 2021**Recommended:**July 1, 2019 through June 30, 2020 | To waive the special education local plan area (SELPA) size and scope requirement to become a Single-district SELPA | Approval with conditions | Hacienda La Puente Teacher’s Association, Billie WrightPresident8/30/18 & 9/20/18Support | 10/11/18 | The LEA may not become a Single-district SELPA |
| 16-2-2019 | Rowland Unified School District | **Requested:**July 1, 2019, through June 30, 2021**Recommended:**July 1, 2019 through June 30, 2020 | To waive the SELPA size and scope requirement to become a Single-district SELPA | Approval with conditions | California School Employees Association, Sharon CarrilloPresident9/27/2018Support | 10/11/18 | The LEA may not become a Single-district SELPA |

Created by California Department of Education
April 2019

**Attachment 2: Waiver 3-2-2019 Hacienda La Puente Unified School District**

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1973445

Waiver Number: 3-2-2019

Active Year: 2019

Date In: 2/5/2019 3:24:17 PM

Local Education Agency: Hacienda la Puente Unified School District

Address: 15959 East Gale Ave.

City Of Industry, CA 91745

Start: 7/1/2019

End: 6/30/2021

Waiver Renewal: No

Waiver Topic: Special Education Program

Ed Code Title: Select an Ed Code Title...

Ed Code Section: 56195.1(a) Special Education Local Plan Size and Scope

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: For Hacienda La Puente USD: [56195.1(a)] [“If of sufficient size and scope, under standards adopted by the board, submit to the superintendent a local plan for the education of all individuals with exceptional needs residing in the district in accordance with Chapter 3 (commencing with Section 56205)” ]

Outcome Rationale: The most compelling reason for the Hacienda La Puente Unified School District to operate as single district SELPA is that, as they are serving almost 100% of their students, there is no need for oversight of services by a SELPA. For many years, in concert with least restrictive environment requirements, each of the two Puente Hills SELPA districts have been progressively serving a greater percentage of student with disabilities in its own programs within the districts. Based on 2017-18 count data, Hacienda La Puente Unified was serving 99.4% and Rowland Unified was serving 98.9% of their resident students within the District. Under the proposed single district local plans, students who have vision disabilities will be continue to be served in their resident district through an inter-SELPA agreement that provides services of staff who are appropriately credentialed. Students who are deaf/hard of hearing (DHH) will continue to be served by their resident district or through a long-standing inter-SELPA agreement with Covina Valley Unified School District in the East San Gabriel Valley SELPA, which currently provides services for students with intensive DHH needs. As a result, there will not be any change to existing services to students as a consequence of the proposed separation.

With regard to student outcomes, each of the two districts have developed initiatives that are in place to support the success of all students with disabilities, with a focus on reading, mathematics, graduation rate and college/career. These plans are provided in attachments.

Fiscally, as single district SELPAs, the districts will continue to receive the same distribution of funding as they currently get since the current SELPA allocation plan allocates AB 602 and mental health services funds using the same district ADA revenue allocation as the California Department of Education. In addition, single district SELPAs can be more cost effective by eliminating a third-party administrative tier. To avoid duplication of services by SELPA administration, districts have special education administrators who may assume the functions of a SELPA Director, staff who are able to complete all required state reports and specialized fiscal staff who are able to receive and track revenues and expenditures in compliance with special education regulations. To strengthen student outcomes, the funds used to support SELPAs administration and support staff would be reallocated to expenditures on behalf of students with disabilities in each of the two districts.

Most importantly, approval of this waiver will enable the districts to streamline local district operations under the governance of their own local school boards.

To support our request for approval, we have submitted as an attachment, a copy of our SELPA’s November 19, 2018 letter to Dr. Michael Kirst that identifies nine single district SELPAs that were approved by the State Board of Education from 2003 to 2017 despite not meeting “size and scope” requirements. We reported that fifteen, or one third, of the existing forty-three single district SELPAs do not meet the size and scope requirements. The common characteristic of all of these SELPAs is that each serves at least 95% of its resident students with disabilities, which, as stated above, is true for both of the Puente Hills SELPA school districts. In addition, recently four charter-only SELPAs with student enrollment at or significantly under 4,177 in 2014-15 have been approved for operation including L.A, County Charter SELPA, Desert Mountain Charter SELPA, Sonoma Charter SELPA, and Fresno County Charter SELPA with a 1,019 student enrollment in 2017-18.

According to staff of the Los Angeles County Office of Education (LACOE), the two district’s proposed special education local plans will receive provisional approval from the LACOE Superintendent, subject to final approval by the State Board of Education. Each district’s local plan, proposed to take effect in the 2019-2020 school year, shall be reviewed yearly and updated as required, reflecting changes in federal and/or state regulations.

Student Population: 18302

City Type: Urban

Public Hearing Date: 10/11/2018

Public Hearing Advertised: Hacienda USD advertised the hearing on its website and in public places in accordance with the Brown Act.

Local Board Approval Date: 10/11/2018

Community Council Reviewed By: Community Advisory Committee

Community Council Reviewed Date: 9/5/2018

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Doreen Lohnes

Position: Interim SELPA Director Puente Hills SELPA

E-mail: [doreen.lohnes@rowlandschools.org](file:///%5C%5CCDE.Cal%5CDATA%5CSEDATA%5CCENTRAL%5CDivision-wide%5CWAIVERS%5CWaiver%20Items%5C2019%5CMay%20SBE%20Meeting%5Cdoreen.lohnes%40rowlandschools.org)

Telephone: 626-964-7458 x2864

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Bargaining Unit Date: 09/20/2018

Name: California School Employees Association CSEA

Representative: Margaret Caldera

Title: President

Position: Support

Bargaining Unit Date: 09/20/2018

Name: Hacienda La Puente Teacher's Association

Representative: Billie Wright

Title: President

Position: Support

Bargaining Unit Date: 09/20/2018

Name: Service Employee International Union (SEIU)Local 9

Representative: Esther Alvares

Title: Member

Position: Support

**Attachment 3: Waiver 16-2-2019 Rowland Unified School District**

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1973452

Waiver Number: 16-2-2019

Active Year: 2019

Date In: 2/19/2019 9:35:11 AM

Local Education Agency: Rowland Unified

Address: 1830 South Nogales St.

Rowland Heights, CA 91748

Start: 7/1/2019

End: 6/30/2021

Waiver Renewal: No

Waiver Topic: Special Education Program

Ed Code Title: One year notice to change SELPA

Ed Code Section: [56195.1(a)] Special Education Local Plan Size and Scope

Ed Code Authority: [330050]

*Education Code* or *CCR* to Waive: [56195.1(a)] [“If of sufficient size and scope, under standards adopted by the board, submit to the superintendent a local plan for the education of all individuals with exceptional needs residing in the district in accordance with Chapter 3 (commencing with Section 56205)”]

Outcome Rationale: The most compelling reason for the Rowland Unified School District to operate as single district SELPA is that, as they are serving almost 100% of their students, there is no need for oversight of services by a SELPA. For many years, in concert with least restrictive environment requirements, each of the two Puente Hills SELPA districts have been progressively serving a greater percentage of student with disabilities in its own programs within the districts. Based on 2017-18 count data, Hacienda La Puente Unified was serving 99.4% and Rowland Unified was serving 98.9% of their resident students within the District. Under the proposed single district local plans, students who have vision disabilities will be continue to be served in their resident district through an inter-SELPA agreement that provides services of staff who are appropriately credentialed. Students who are deaf/hard of hearing (DHH) will continue to be served by their resident district or through a long-standing inter-SELPA agreement with Covina Valley Unified School District in the East San Gabriel Valley SELPA, which currently provides services for students with intensive DHH needs. As a result, there will not be any change to existing services to students as a consequence of the proposed separation.

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Student Population: 13301

City Type: Urban

Public Hearing Date: 10/11/2018

Public Hearing Advertised: Rowland Unified School District advertised the hearing on its website and in accordance with the Brown Act.

Local Board Approval Date: 10/11/2018

Community Council Reviewed By: Community Advisory Committee

Community Council Reviewed Date: 9/5/2018

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Doreen Lohnes

Position: Interim SELPA Director Puente Hills SELPA

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Bargaining Unit Date: 09/27/2018

Name: Association of Rowland Educators ARE

Representative: Shay Lohman

Title: President

Position: Support

Bargaining Unit Date: 09/27/2018

Name: California School Employees Association CSEA

Representative: Sharon Carillo

Title: President of CSEA

Position: Support