

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education May 2019 Agenda Item #W-13

## Subject

Request by **Tehama County Department of Education** to waive *Education Code* Section 56362(c), allowing the caseloads of resource specialists to exceed the maximum caseload of 28 students by no more than four students (32 maximum).

## Waiver Number

8-1-2019

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Tehama County Department of Education (TCDE) requests to increase the caseload of Karen Reno, resource specialist assigned at Tehama eLearning Academy from the maximum allowed caseload of 28 students to 32 students.

## Authority for Waiver

*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 the resource specialist instructional aide time of at least five hours daily whenever the resource specialist’s caseload exceeds the statutory maximum caseload of 28 students by no more than 4 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 (IEPs) 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 components 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 that the teacher agreed to the waiver, and the teacher information provided on the waiver submission is accurate.
* Contacting the union representative to confirm that the local educational agency (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.
* If necessary, talking to the LEA administrator to gather additional information.

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

The Tehama County Department of Education (TCDE) requests to increase the caseload of Karen Reno, resource specialist at Tehama eLearning Academy. 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 RSP caseload of 28 students. The resource specialist agreed to the waiver, and is receiving more instructional aide time than is required with the waiver.

**Demographic Information:** The TCDE has a student population of 244 and is located in a rural area in Tehama County.

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

Per *EC* Section 56101, the State Board of Education (SBE) is allowed to waive any provision of *EC* or regulation if the waiver is necessary or beneficial when implementing a student’s IEP. Title 5 *CCR* specifically allows the SBE to approve waivers for RSP caseloads to exceed the maximum caseload of 28 students by no more than 4 students. However, there are specific requirements in regulations which must be met for approval, and if 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 waiver's effective period.

(3) The waiver confirms that the students served by an affected resource specialist will receive all of the services called for in their 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 the 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 (1 page)
* **Attachment 2:** Tehama County Department of Education Waiver 8-1-2019   
  (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Resource Specialist Caseload Waiver Request, Administrator Supplemental Form (3 pages).
* **Attachment 4:** Resource Specialist Caseload Waiver Request, Teacher Supplemental Form (4 pages).

# Attachment 1: Summary Table

California *Education Code* Section 56101

| Waiver Number | School District, School | Name of Teacher, Agrees to Excess Caseload? | Over Statutory Caseload for More Than Two Years? | Previous Aide Time (prior to increased caseload), Current Aide Time (with increased caseload) | Period of Request | Local Board Approval Date | Bargaining Unit, Representative, Consulted, Date, and Position |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 8-1-2019 | Tehama County Department of Education, Tehama eLearning Academy | Karen Reno  **Yes** | No | **Previous:**  18 hours per week  **Current:**  30 hours per week | **Requested**  January 8, 2019,  to June 1, 2019  **Recommended** January 8, 2019,  to June 1, 2019 | 12/13/2018 | California Teacher Association, David Torgersrud,  President 12/13/2018 Support |

Created by California Department of Education   
March 2019

# Attachment 2: Waiver 8-1-2019 Tehama County Department of Education

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 5210520

Waiver Number: 8-1-2019

Active Year: 2019

Date In: 1/9/2019 2:46:15 PM

Local Education Agency: Tehama County Department of Education

Address: 1135 Lincoln St.

Red Bluff, CA 96080

Start: 1/8/2019

End: 6/1/2019

Waiver Renewal: Yes

Previous Waiver Number: 2-5-2018

Previous SBE Approval Date: 9/7/2018

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: [No resource specialist shall have a caseload which exceeds 28 pupils]

Outcome Rationale: School has experienced higher than anticipated enrollment of students with an IEP. Enrollment has been fluctuating and this makes it difficult to fully plan for the actual need.

Student Population: 30

City Type: Rural

Local Board Approval Date: 12/13/2018

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Michelle Barnard

Position: Principal

E-mail: [mbarnard@tehamaschools.org](file:///\\CDE.Cal\DATA\SEDATA\CENTRAL\Division-wide\WAIVERS\Waiver%20Items\2019\May%20SBE%20Meeting\mbarnard@tehamaschools.org)

Telephone: 530-527-0188 x413

Bargaining Unit Date: 12-13-2018

Name: California Teacher Association

Representative: David Torgersrud

Title: President

Position: Support

Contact Number: 530-736-8761