

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education May 2019 Agenda Item #W-14

## Subject

Requests by **two school districts** under the authority of California *Education Code* (*EC*)Section 49548 to waive *EC* Section 49550, the State Meal Mandate, during the summer school session.

## Waiver Numbers

* Eastern Sierra Unified School District 28-2-2019
* Wiseburn Unified School District 13-2-2019

## Type of Action

Action, Consent

## Summary of the Issue(s)

*EC* Section 49550, known as the State Meal Mandate, requires that public school districts and county offices of education provide a meal to needy students every school day. *EC* Section 49548 requires that the State Board of Education (SBE) grant requests for waivers to *EC* Section 49550 during summer school sessions if the requestor meets one of the three conditions outlined in the Summary of Key Issues.

Two districts have requested summer school meal waivers based upon meeting one of the three conditions (see Attachment 1 for more details).

## Authority for Waiver

*Education Code (EC)* Section 49548

## Recommendation

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

## Summary of Key Issues

Under *EC* Section 49548, school sites operating a summer school session shall be granted a waiver to *EC* Section 49550, referenced to as the State Meal Mandate, if one of the following conditions is met:

### Condition One

Elementary schools shall be granted a waiver if a Summer Food Service Program (SFSP) for children site is available within one-half mile of the school site. Middle schools, junior high schools, and high schools shall be granted a waiver if an SFSP site is available within one mile of the school site. Additionally, one of the following conditions must exist:

* The hours of operation of the SFSP site commence no later than one-half hour after the completion of the summer school session day.
* The hours of operation of the SFSP site conclude no earlier than one hour after the completion of the summer school session day.

For purposes of this section of law, elementary school means a public school that maintains kindergarten or any of grades first through eighth inclusive.

### Condition Two

Serving meals during the summer school session would result in a financial loss to the school district, documented in a financial analysis performed by the school district, in an amount equal to one-third of the net cash resources (NCR) in the nonprofit food service account as defined in Title 7, *Code of Federal Regulations*, Section 210.2, which, for purposes of this section of law, shall exclude funds that are encumbered. If there are no NCR, the financial loss must be greater than or equal to the food service operating costs of one month as averaged over the summer school sessions.

The financial analysis must include a projection of future meal program participation under one of the following scenarios:

* The meal service begins after the commencement of the summer school session day and concludes before the completion of the summer school session day. Districts must project profit or loss based on serving a breakfast or a lunch during school hours and not before or after the school day.
* The school site operates as an open Summer Seamless Option or SFSP site, and providing adequate notification thereof, including flyers and banners, in order to fulfill community needs under the SFSP.

### Condition Three

Summer school sites that operate two hours or less including breaks and recess shall be granted a waiver.

### Summary/Recommendation

The districts listed in Attachment 1 have requested a waiver of *EC* Section 49550 for the summer of 2019 and have certified their compliance with all required conditions necessary to obtain a waiver.

The California Department of Education (CDE) reviewed the waiver requests from the districts. CDE staff contacted the districts to create the waiver conditions listed below in an effort to ensure all eligible children received summer meals. While each district has unique reasons for seeking a waiver of the State Meal Mandate, the conditions listed below assist students with accessing the free or reduced priced meals during summer which they are entitled to receive.

CDE staff recommends approval with the following conditions:

The Eastern Sierra Unified School District (ESUSD) shall explore private funding opportunities for summer meal service, and the CDE will make technical assistance available to the ESUSD upon request.

The Wiseburn Unified School District (WUSD) shall promote the SFSP site operating 0.5 miles away at Del Aire Park throughout the summer school service, including accompanying any students wishing to receive a meal to the park on the first day of summer school.

The Eastern Sierra Unified School District (ESUSD) shall explore private funding opportunities for summer meal service, and the CDE will make technical assistance available to the ESUSD upon request.

The Wiseburn Unified School District (WUSD) shall promote the SFSP site operating 0.5 miles away at Del Aire Park throughout the summer school service, including accompanying any students wishing to receive a meal to the park on the first day of summer school.

**Demographic Information:** The ESUSD has a student population of 418 and is located in a rural area in Mono County.

The WUSD has a student population of 2,525 and is located in a suburban area in Los Angeles County.

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

In the past five years, the number of similar waiver requests approved by the SBE annually has dropped from six to two. The most recent approval was at the May 2018 SBE meeting for Item W-12 (<https://www.cde.ca.gov/be/ag/ag/yr18/documents/may2018w12.docx>) for the same two requesting districts in this item.

## Fiscal Analysis (as appropriate)

Approval of the waivers may reduce the draw on Proposition 98 funds at the state level.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Eastern Sierra Unified School District Waiver Request 22‑2­2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Wiseburn Unified School District Waiver Request 13-2-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* (*EC*) Section 49548

| Waiver Number | District | Period of Request | District’s Request | CDE Recommended | Local Board and Public Hearing Approval | Penalty Without Waiver | Previous Waivers |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 28-2-2019 | Eastern Sierra Unified School District | **Requested:** July 8, 2019, to August 9, 2019  **Recommended:** July 8, 2019, to August 9, 2019 | Waive the requirement that meals be provided to needy students during summer school under Condition Two. | Waive the requirement that meals be provided to needy students during summer school under Condition Two. | Local board approval 2/26/2019 | None | 5-3-2018 |
| 13-2-2019 | Wiseburn Unified School District | **Requested:**  June 14, 2019, to August 23, 2019  **Recommended:** June 14, 2019, to August 23, 2019 | Waive the requirement that meals be provided to needy students during summer school under Condition One. | Waive the requirement that meals be provided to needy students during summer school under Condition One. | 1/10/2019 | None | 28-1-2018 |

Created by California Department of Education   
March 2019

# Attachment 2: Eastern Sierra Unified School District Waiver 28-2-2019

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 2673668

Waiver Number: 28-2-2019

Active Year: 2019

Date In: 2/27/2019 3:16:16 PM

Local Education Agency: Eastern Sierra Unified School District

Address: 231 Kingsley St.

Bridgeport, CA 93517

Start: 7/8/2019

End: 8/9/2019

Waiver Renewal: Yes

Previous Waiver Number: 5-3-2018-W-12

Previous SBE Approval Date: 5/9/2018

Waiver Topic: State Meal Mandate

Ed Code Title: Summer School Session

Ed Code Section: 49550

Ed Code Authority: 49548

Ed Code or *CCR* to Waive: Operating food services would be a severe financial hardship due to rural, remote schools and small summer school populations.

Outcome Rationale: Operating food services would be a severe financial hardship due to rural, remote schools and small summer school populations.

Student Population: 418

City Type: Rural

Local Board Approval Date: 2/26/2019

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Mollie Nugent

Position: Chief Business Officer

E-mail: [mnugent@esusd.org](mailto:mnugent@esusd.org)

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Fax: 760-932-7140

Bargaining Unit Date: 01/30/2019

Name: ESCSEA

Representative: Tim May

Title: President

Position: Support

# Attachment 3: Wiseburn Unified School District Waiver 13-2-2019

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 1976869

Waiver Number: 13-2-2019

Active Year: 2019

Date In: 2/13/2019 10:08:15 AM

Local Education Agency: Wiseburn Unified School District

Address: 201 North Douglas St.

El-Segundo, CA 90247

Start: 6/14/2019

End: 8/23/2019

Waiver Renewal: Yes

Previous Waiver Number: 28-1-2018-W-12

Previous SBE Approval Date: 5/9/2018

Waiver Topic: State Meal Mandate

Ed Code Title: Summer School Session

Ed Code Section: 49550

Ed Code Authority: 49548

Ed Code or *CCR* to Waive: Not withstanding any other provision of law, each school district or county superintendent of schools maintaining any kindergarten or any of grades 1 to 12, inclusive, shall provide for each needy pupil one nutritionally adequate free or reduced-price meal during each school day, except for family day care homes that shall be reimbursed for 75 percent of the meals served.

Outcome Rationale: Providing lunches during summer school would result in financial hardship and there is summer lunch program within 1/2 mile of Juan De Anza Elementary School where our summer school program will be held.

Student Population: 2525

City Type: Suburban

Local Board Approval Date: 1/10/2019

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. D'ann Ika

Position: Food Service Clerk

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