

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of Education March 2020 Agenda Item #W-01

## Subject

Request by **Chino Valley Unified School District** to waive portions of California *Education Code* Section 48661(a) to permit the colocation of Chino Valley Learning Academy, a community day school, on the same site as an elementary school, a senior high school, and other alternative education programs.

## Waiver Numbers

* Chino Valley Unified School District 10-12-2019

## Type of Action

Action, Consent

## Summary of the Issue(s)

Request by the Chino Valley Unified School District (CVUSD)to waive portions of California *Education Code* (*EC*) Section 48661(a) to permit colocation of the Chino Valley Learning Academy (CVLA), a community day school (CDS) serving students in grades seven through twelve, with following schools:

* The Alternative Education Center (AEC) which houses Independent Study (grades nine through twelve), Home-Based Independent Study (Kindergarten through grade twelve), Virtual Program (grades nine through twelve)
* The Sycamore Academy of Science and Cultural Arts-Chino Valley (SASCA-CV) charter school, serving students in transitional kindergarten through grade five
* The Spectrum Center, a nonpublic, nonsectarian, certified school serving students in grades nine through twelve

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

The California Department of Education (CDE) recommends approval of this waiver with the following condition:

* In accordance with *EC* Section 48661(b), the CVUSD shall maintain its certification for the duration of the colocation waiver on the basis of a two-thirds annual vote of the local governing board that satisfactory alternative facilities are not available for a CDS.

## Summary of Key Issues

*EC* Section 48916.1(a) requires school districts to ensure that each of their expelled students be provided an educational program during the period of expulsion.

*EC* Section 48661(a) states that a CDS shall not be situated on the same site as a comprehensive elementary, middle, or high school, continuation high school, or an opportunity school. *EC* Section 48661(a) authorizes a small school district with 2,500 or fewer students to waive the separation requirement based on an annual certification by at least two-thirds of the local board when separate alternative facilities are not available. The CVUSD, with enrollment of 27,672 students, is requesting this waiver to authorize it to act similar to a small school district.

The CVUSD established the CVLA CDS in 2002. In the beginning of the 2011–12 school year, due to lack of available facilities to serve increased student enrollment in the CVLA, the district placed the CVLA at the far south side of the AEC school site. The district installed fencing and gates between the CVLA campus and the AEC campus, and implemented additional safety and security measures to ensure CVLA students were supervised at all times to prevent any interactions with other students at the school site. Because the CVLA campus and the AEC campus were now separated by fencing and gates, the district obtained separate addresses for the two programs. The CVLA campus is located at 15676 Pipeline Avenue, Chino Hills, California 91709, and the AEC campus is located at 15650 Pipeline Avenue, Chino Hills, California 91709. In July 2011 the Spectrum Center, a nonpublic nonsectarian certified school serving students in grades nine through twelve, entered into a license agreement with the district to use exclusive and shared space at the AEC school site. On March 29, 2019, pursuant to Proposition 39 regulations and due to a lack of any other reasonably equivalent district facilities for the SASCA-CV, the district offered exclusive and shared space at the AEC school site to the SASCA-CV charter school for the 2019–20 school year. The SASCA-CV charter school serves students in transitional kindergarten through grade five. The district’s offer included a proposed Shared Use Agreement between the district and the SASCA-CV, which provided that the SASCA-CV would be sharing certain facilities with the AEC, the CVLA, and the Spectrum Center.

Subsequent to the colocation of the several schools, the district, on the advice of CDE staff, reconsidered their prior opinion that obtaining a separate address for the CDS based on the construction of a fence splitting a long identified single site constituted it being a truly separate site, per *EC* Section 48661. The CVUSD is requesting this waiver to ensure that the district is not exposed to unnecessary liability based on colocation.

The CVUSD governing board voted unanimously in certifying that there are no separate alternative facilities for the CDS. The district has presented a comprehensive plan for maintaining separation and safety for the CVLA CDS and for the other schools and programs sharing the AEC campus site. The CVLA has its own arrival and departure site and times, parking lot, office, classrooms, and office. These are all contained within fencing and gates. The CVLA students moving about the larger AEC campus are escorted by the campus security officer or other CVLA staff. Use of common facilities (cafeteria and athletic areas) are scheduled separately for the CVLA. Since the CVLA was established at the AEC school site nine years ago, there have been no major safety issues from incidents with physical violence, weapons, or drugs involving CVLA students, and the district has not received any significant complaints about CVLA students at the AEC school site. Likewise, there have been no negative interactions between the AEC and other collocated school students and CVLA students.

The local board voted unanimously to request the waiver. The Associated Chino Teachers supports the waiver through its president, Brenda Walker. The California School Employees Association supports the waiver through its president, Daniel Hernandez. The SASCA-CV supports the waiver through its executive director, Barbara Hale. The Spectrum Center supports the waiver through its director, Danielle Frey. The CVLA’s School Site Council and the AEC personnel held a meeting at the AEC school site to gather input regarding the colocation of the CVLA with other educational programs operating at the AEC school site. At the meeting, the CVLA’s School Site Council expressed strong support for the waiver. The AEC personnel and parent attendees also support the waiver.

**Demographic Information:**

The CVUSD has a student population of 27,672 students and is located in a suburban region in San Bernardino County.

**Because this is a general waiver, if the State Board of Education decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a), available at** <http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051>.

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

The SBE has approved several previous waiver requests from school districts requesting authorization to permit a CDS to be collocated with other schools and programs upon a two-thirds vote of the local board when a separate alternative facility for the CDS was not feasible.

## Fiscal Analysis (as appropriate)

There is no statewide fiscal impact of waiver approval.

## Attachment(s)

* **Attachment 1:** Summary Table of Community Day School State Board of Education Waiver (2 pages)
* **Attachment 2:** Chino Valley Unified School District General Waiver Request 10-12-2019 (3 pages). (Original Waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table of Community Day School State Board of Education Waiver

Portions of California *Education Code* Section 48661

| WaiverNumber | District Name,Size of District, andLocal BoardApproval Date | Period of Request | If granted, this waiver will be "permanent"per *EC* Section 33501(b) | Bargaining Unit Name and Representative,Date of Action,and Position | Advisory Committee/Schoolsite Council Name,Date of Reviewand Any Objections |
| --- | --- | --- | --- | --- | --- |
| 10-12-2019 | Chino Valley Unified School District  27,672 students  23 students in the Chino Valley Learning Academy Community Day School  459 students in the Alternative Education Center (75–125 students on campus each day)   * 159 students in the Virtual High School * 253 students in Independent Study * 47 students in Home-based Study   38 students in the Spectrum Center  120 students in the Sycamore Academy of Science and Cultural Arts-Chino Valley charter school  December 12, 2019  3-0 Vote | **Requested:**  June 30, 2020,  through  June 30, 2021  **Recommended:**  December 17, 2019,  through  June 30, 2021 | No | Associated Chino Teachers  Brenda Walker,  President  November 18, 2019  **Support**  California School Employees Association  Daniel Hernandez,  President  November 14, 2019  **Support** | Chino Valley Learning Academy School Site Council plus Alternative Education Center personnel and parents  November 21, 2019  **No Objections** |

Created by California Department of Education

January 2020

# Attachment 2: Chino Valley Unified School District General Waiver Request 10-12-2019

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 3667678

Waiver Number: 10-12-2019

Active Year: 2019

Date In: 12/17/2019 3:45:41 PM

Local Education Agency: Chino Valley Unified

Address: 5130 Riverside Dr.

Chino, CA 91710

Start: 6/30/2020

End: 6/30/2021

Waiver Renewal: No

Waiver Topic: Community Day Schools (CDS)

Ed Code Title: Colocate Facilities

Ed Code Section: 48661(a)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: The District requests a waiver of the application of the language identified in brackets below from *Education Code* § 48661(a)(1) to permit co-location of a community day school at the same site as other educational programs:

“(1)When the governing board of a school district [with 2,500 or fewer units of average daily attendance reported for the most recent second principal apportionment] certifies by a two–thirds vote of its membership that satisfactory alternative facilities are not available for a community day school.”

Outcome Rationale: On May 3, 2019, a California Department of Education (CDE) representative contacted the Chino Valley Unified School District inquiring about the co-location of educational programs operating at the Los Serranos school site, located at 15650 Pipeline Ave, Chino Hills, CA 91709. On May 15, 2019, the District responded to CDE. On June 4, 2019, the District sent a follow-up email requesting a response to the District’s May 15, 2019 letter and received a response that the “issue was resolved.”

In October 2019, the District was directed by the CDE representative to submit a waiver of the application of *Education Code* § 48661(a) pursuant to the general waiver provisions of *Education Code* § 33050 et seq. to permit co-location of its community day school, Chino Valley Learning Academy (CVLA), with other educational programs operating at the school site: the District’s Alternative Education Center, the Sycamore Academy of Science and Cultural Arts-Chino Valley (SASCA-CV) charter school, and Spectrum Center Schools and Programs (Spectrum Center). The community day school is separated from the other educational programs by fencing and gates. The District has been successfully operating the community day school at the Los Serranos school site under secure conditions since the 2011–2012 school year. There have been no negative interactions or major safety issues between CVLA students and other programs operating at the school site.

On December 12, 2019, the District’s Board of Education held a public hearing to seek input from the school community regarding the co-location. After a unanimous vote of 3-0, the Board adopted a resolution to facilitate local agency operations that certified that there are no separate alternative facilities for CVLA, approved the co-location of the community day school with other educational programs operating at the Los Serranos school site, and approved the submission of a request to CDE under *Education Code* § 48661(a) pursuant to the general waiver provisions of *Education Code* § 33050 et seq.

Student Population: 27672

City Type: Suburban

Public Hearing Date: 12/12/2019

Public Hearing Advertised: Notice of the public hearing was posted in the Inland Valley Daily Bulletin, a local newspaper, on the following dates: November 22, 25, 26, 27, 28 and 28, and December 2, 3, 4, 5, and 6.

Local Board Approval Date: 12/12/2019

Community Council Reviewed By: Chino Valley Unified School District Board of Education & CVLA School Site Council

Community Council Reviewed Date: 11/21/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Lea Fellows

Position: Assistant Superintendent

E-mail: [lea\_fellows@chino.k12.ca.us](mailto:lea_fellows@chino.k12.ca.us)

Telephone: 909-628-1201 x1690

Bargaining Unit Date: 11/18/2019  
Name: Associated Chino Teachers (ACT)  
Representative: Brenda Walker  
Title: ACT President  
Position: Support  
Comments:

Bargaining Unit Date: 11/14/2019  
Name: California School Employees Association (CSEA)  
Representative: Daniel Hernandez  
Title: CSEA President  
Position: Support  
Comments: