

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education July 2018 Agenda Item #W-20

## Subject

Request by **Union Elementary School District** to waive *Education Code* Section 56362(c), allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than four students (32 maximum).

## Waiver Number

17-3-2018

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Union Elementary School District (UESD) requests to increase the caseload of one resource specialist 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 conditions: (1) The UESD 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); (2) The UESD must submit to the Special Education Division (SED) of the CDE, documentation of efforts to recruit and employ fully credentialed resource specialists for the 2018–19 school year. The district is to use and document at least two or more different modalities for recruiting qualified personnel, such as:

* Posting of fliers
* Job listings in newspapers, professional periodicals, or other such listings
* Online job listings such as EdJoin, or other education related Web sites
* Participation in career or employment fairs
* Active recruitment at universities and other institutions of higher learning
* Involvement with institutions of higher learning for programs on teacher training
* Use of local educational agency (LEA) based teacher training, or use of career ladders for current staff

## 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, 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 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 UESD requests to increase the caseload of Danielle Buzbee, resource specialist at Carlton Elementary School. There have been no prior documented complaints registered with the CDE related to the UESD exceeding the maximum RSP caseload of 28 students. However, the UESD has had waivers for two teachers in each of the two previous school years (2015–16 and 2016–17).

The resource specialist agreed to the waiver and is receiving an additional stipend for exceeding the caseload limit per the bargaining unit agreement. She is receiving additional instructional aide support totaling 38 hours per week.

**Demographic Information:** The UESD has a student population of 5,921 and is located in an urban area in Santa Clara County.

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

*EC* Section 56101 allows the State Board of Education (SBE) 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**: Union Elementary School District Waiver 17-3-2018

(6 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 56101

| Waiver Number | School District, School | Name of Teachers, 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 |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 17-3-2018 | Union Elementary School District, Carlton Elementary School | Danielle Buzbee  **Yes** | No | **Previous :** 30 hours per week  **Current:** 38 hours per week | **Requested:**  March 12, 2018, to June 7, 2018  **Recommended**  March 12, 2018, to June 7, 2018 | March 12, 2018 | Union District Educators Association, Julie Guglielmo President Support |

Created by California Department of Education

May 2018

# Attachment 2: Waiver 17-3-2018 Union Elementary School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 4369708

Waiver Number: 17-3-2018

Active Year: 2018

Date In: 3/13/2018 2:53:09 PM

Local Education Agency: Union Elementary School

Address: 5175 Union Ave.

San Jose, CA 95124

Start: 3/12/2018

End: 6/7/2018

Waiver Renewal: No

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: 56362 (c) Caseloads for resource specialists shall be stated in the local policies developed pursuant to Section 56195.8 and in accordance with regulations established by the board. No resource specialist shall have a caseload which exceeds 28 pupils.

Outcome Rationale: As part of child find, students were assessed and made eligible for RSP services throughout the school year.

Student Population: 5921

City Type: Urban

Local Board Approval Date: 3/12/2018

Audit Penalty Yes or No: N o

Categorical Program Monitoring: No

Submitted by: Ms. Linda Haines

Position: Director of Special Education

E-mail: [hainesl@unionsd.org](file:///\\CDE.Cal\DATA\SEDATA\CENTRAL\Division-wide\WAIVERS\Waiver%20Items\2018\July%20SBE%20Meeting\hainesl@unionsd.org)

Telephone: 408-377-8010 x44261

Fax: 408-377-8010

Bargaining Unit Date: 02/14/2018

Name: UDEA - Union District Educators Association

Representative: Julie Guglielmo

Title: UDEA President

Position: Support

**California Department of Education**

**Revised 1-19-2018**

## Specific Waiver Request for Resource Specialist Caseload

**To be Completed by the Administrator**

SELPA / District / COE Name: SELPA III, Union School District, Santa Clara County Office of Ed

Name of Resource Specialist: Danielle Buzbee

School / District Assignment: Carlton Elementary

Status: Permanent, Probation or Temporary: Permanent

Number of Students: 28

Caseload proposed number of students: 32

Full time Equivalent (FTE%): 1.0

Number of periods or hours taught by Resource Specialist: 6.5 hours

Average number of students per hour taught: 8-10 per hour

Indicate amount of Instructional Aide time hours to be provided to this resource specialist with this waiver: 8 hours weekly

**Note: At least 5 hours of aide time is required when the caseload is over 28, per *CCR*, Title 5, Section 3100(d)(2).**

Provide assurance that the waiver will not hinder the implementation of a student’s individualized educational program (IEP) for all students involved with the waiver or compliance with specified federal law, per *CCR*, Title 5, Section 3100(d):

Service levels for RSP service on all IEPs will be delivered.

Explain what extraordinary fiscal or program circumstances resulted in this request for excess caseload, per *CCR*, Title 5, Section 3100(d):

As part of Child Find, students were assessed and made eligible for RSP services throughout the school year.

Indicate how your plan of action to resolve conditions by the time the waiver expires or is denied by the SBE, per *CCR*, Title 5, Section 3100(d)(1):

5th grade student with RSP service will be matriculated to middle school for the

18-19 school year.

Administrator/Designee Name and title: Linda Haines, Sp Ed Director

Telephone number (and extension): 408-377-8010 ext 44236

Date: 2/8/18

## Specific Waiver Request for Resource Specialist Caseload

**To be Completed by the Resource Specialist (Teacher)**

Name: Danielle Buzbee

Assigned at: Carlton Elementary

Is the information in Items 1 through 12 on the attached SW \_ RSC \_ Administrator form an accurate reflection of your current assignments, personal data, FTE, your caseload, number of periods taught and average number of students? Yes or No: Yes

If not, please state where you believe these facts or numbers differ

Will all students served receive all of the services called for in their IEP’s?

Can you reasonably manage the excess caseload in relation to the programmatic condition you face, including, but not limited to, student age level, age span, and behavioral characteristics; number of curriculum levels taught at any one time or any given session, and intensity of student instructional needs? Please explain:

Yes, because of the additional instructional aide time I believe I can manage the caseload.

Can you reasonably manage the excess caseload in relation to your student contact time, and other assigned duties? Please explain:

Yes, I believe I can with additional supports in place mentioned in the above.

*EC* Section 56362(c) states that no resource specialist shall have a caseload which exceeds 28 students, per *CCR*, Title 5, Section 3100. Regulations allow your agency to request a waiver of the *EC*, providing certain conditions are met, and that in no circumstance may your caseload be raised to above 32 students.

Indicate your position regarding this waiver request by a check mark next to the correct line:

AGREE X to the increase in my student caseload from 28 students to not more than

32 students.

DISAGREE to an increase in my student caseload over the 28 students. If disagreeing, provide rational below:

Indicate a check mark on the appropriate line:

I did not have a student caseload of more than 28 during the last school year. X

I did have a student caseload of more than 28 during the last school year. If yes, please respond below:

1. Did you have an approved waiver for this caseload? Yes or No:
2. Specify which months / weeks you were over caseload: From/to:
3. Other pertinent information:

I have had a student caseload of more than 28 for more than two consecutive years. Yes or No: No

Instructional Aide time currently receiving: Hours (prior to increased caseload): 30

Any additional Aide time with this waiver? 8 Total hours after increase: 38

I hereby certify that the information provided on this application is true and correct (please initial): DB

Date: 2/8/18

Telephone number (and extension): 209-261-5088 cell, 408-356-1141 ext 13108 school