

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education May 2018 Agenda Item #W-12

## Subject

Request by three school districts under the authority of California *Education Code* Section 49548 to waive *Education Code* Section 49550, the State Meal Mandate during the summer school session.

## Waiver Number

* Eastern Sierra Unified School District 5-3-2018
* Mark West Union Elementary School District 25-2-2018
* Wiseburn Unified School District 28-1-2018

## Type of Action

Action, Consent

## Summary of the Issue(s)

California *Education Code* (*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.

Three districts have requested summer school meal waivers based upon meeting one of the three conditions.

## Authority for Waiver

*Education Code (EC)* Section 49548

## Recommendation

* Approval: Yes
* Approval with conditions: No
* 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 so that meals do not have to be served if they meet one of the following conditions:

### 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 a 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) 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 operating costs of one month as averaged over the summer school sessions.

The financial analysis must include a projection of future meal program participation based on either of the following:

* The meal service period beginning after the commencement of the summer school session day and concluding before the completion of the summer school session day. In other words, 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 operating 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 CDE has reviewed the waiver requests from the districts and recommends approval based on meeting the conditions (One, Two, or Three) listed in the fifth column on Attachment 1.

The districts listed in Attachment 1 have requested a waiver of *EC* Section 49550 for the summer of 2018 and have certified their compliance with all required conditions necessary to obtain a waiver.

**Demographic Information:** The Eastern Sierra Unified School District has a student population of 425 and is located in a rural area in Mono County.

The Mark West Union Elementary School District has a student population of 50 and is located in a suburban area in Sonoma County.

The Wiseburn Unified School District has a student population of 2,559 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 10 to 3. The most recent approval was at the May 2017 SBE meeting for Item W-15, (<https://www.cde.ca.gov/be/ag/ag/yr17/documents/may17w15.doc>) which included Eastern Sierra Unified School District (Mono County), Lassen Union High School District (Lassen County), and Mark West Union Elementary School District (Sonoma County).

## Fiscal Analysis (as appropriate)

Approval of the waivers may reduce the draw on Proposition 98 funds at the state level. Local district finances may be affected.

## Attachment(s)

* **Attachment 1:** Summary Table (2 pages)
* **Attachment 2:** Eastern Sierra Unified School District Specific Waiver Request 5-3-2018 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Mark West Union Elementary School District Specific Waiver Request 25-2-2018 (1 page). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 4:** Wiseburn Unified School District Specific Waiver Request 28-1-2018 (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 |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 5-3-2018 | Eastern Sierra Unified School District | **Requested:**  July 1, 2018, to August 17, 2018  **Recommended:** July 23, 2018, to August 10, 2018 | Waive the requirement that meals be provided to needy students during summer school under Condition 2. | Waive the requirement that meals be provided to needy students during summer school under Condition 2. | Local board approval 2/28/2018 | None | 27-2-2017 |
| 25-2-2018 | Mark West Union Elementary School District | **Requested:**  July 9, 2018, to July 27, 2018  **Recommended:** July 9, 2018, to July 27, 2018 | Waive the requirement that meals be provided to needy students during summer school under Condition 3. | Waive the requirement that meals be provided to needy students during summer school under Condition 1. | Local board approval 3/14/2018 | None | 29-2-2017 |
| 28-1-2018 | Wiseburn Unified School District | **Requested:**  June 11, 2018, to August 3, 2018  **Recommended:** July 9, 2018, to July 27, 2018 | Waive the requirement that meals be provided to needy students during summer school under Condition 1. | Waive the requirement that meals be provided to needy students during summer school under Condition 3. | 1/23/2018 | None | 22-1-2016 |

Created by California Department of Education   
March 2018

# Attachment 2: Waiver 5-3-2018 Eastern Sierra Unified School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 2673668

Waiver Number: 5-3-2018

Active Year: 2018

Date In: 3/5/2018 4:32:08 PM

Local Education Agency: Eastern Sierra Unified School District

Address: 231 Kingsley St.

Bridgeport, CA 93517

Start: 7/1/2018

End: 8/17/2018

Waiver Renewal: Yes

Previous Waiver Number: 27-20-2017-W-15

Previous SBE Approval Date: 5/11/2017

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: 425

City Type: Rural

Local Board Approval Date: 2/28/2018

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Mollie Nugent

Position: Business Manager

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

Telephone: 760-932-7443 x1004

# Attachment 3: Waiver 25-2-2018 Mark West Union Elementary School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 4970805

Waiver Number: 25-2-2018

Active Year: 2018

Date In: 2/26/2018 1:05:02 PM

Local Education Agency: Mark West Union Elementary School

Address: 305 Mark West Springs Rd.

Santa Rosa, CA 95404

Start: 7/9/2018

End: 7/27/2018

Waiver Renewal: No

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: E.C. 49550

Outcome Rationale: The summer session is being operated with only 2.0 hours per day of instruction. Therefore, we are requesting that the mandate for serving meals be waived based on Condition 3.

Student Population: 50

City Type: Suburban

Local Board Approval Date: 2/23/2018

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Renee Loeza

Position: Business/Personnel Technician

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Telephone: 707-524-2977

# Attachment 4: Waiver 28-1-2018 Wiseburn Unified School District

**California Department of Education**

**WAIVER SUBMISSION - Specific**

CD Code: 1976869

Waiver Number: 28-1-2018

Active Year: 2018

Date In: 1/31/2018 3:45:17 PM

Local Education Agency: Wiseburn Unified School District

Address: 201 North Douglas St.

El-Segundo, CA 90247

Start: 6/11/2018

End: 8/3/2018

Waiver Renewal: Yes

Previous Waiver Number: 22-1-2016-W-14

Previous SBE Approval Date: 5/12/2016

Waiver Topic: State Meal Mandate

Ed Code Title: Summer School Session

Ed Code Section: 49550

Ed Code Authority: 49548

*Education Code* or *CCR* to Waive: Notwithstanding 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 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 meal served.

Outcome Rationale: We have Del Aire Park about 1/2 mile from Juan De Anza School that offers a summer lunch program. By using their lunch program, it helps us to not create any financial hardships over the summer with our lunch program.

Student Population: 2559

City Type: Suburban

Public Hearing Date: 1/23/2018

Public Hearing Advertised: Board Agenda

Local Board Approval Date: 1/23/2018

Community Council Reviewed By: Broad member committee

Community Council Reviewed Date: 1/23/2018

Community Council Objection: No

Community Council Objection Explanation: N/a

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. D'Ann Ika

Position: Food Service Clerk

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