

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education July 2019 Agenda Item #W-06

## Subject

Request by **Standard Elementary School District** under the authority of the California *Education Code (EC)* Section 46206(a), to waive *EC* Section 46201, the audit penalty for offering insufficient instructional minutes during the 2017–18 school year.

## Waiver Number

* 8-4-2019

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Standard Elementary School District (SESD) is requesting that the California State Board of Education (SBE) waive the instructional time requirement audit penalty. The SESD was short 570 minutes for the 2017–18 school year. Per *EC* Section 46206(a), the SBE may waive the fiscal penalties for a school district, county office of education, or charter school that fails to maintain the prescribed minimum length of instruction, upon the condition that the school or schools in which the minutes were lost maintain minutes of instruction equal to those lost, in addition to the minimum amount required, for twice the number of years that it failed to maintain the required minimum length of time.

## Authority for Waiver

*EC* Section 46206

**Recommendation**

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

The California Department of Education (CDE) recommends the SBE approve this waiver on the condition that SESD maintains increased instructional minutes of at least the amount required by law plus the 570 minutes SESD failed to offer for a period of two years beginning in 2019–20 through 2020–21 and SESD reports the annual instructional minutes offered in their annual audit report. If these conditions are not met, the penalty will be reinstated.

**Summary of Key Issues**

During an audit of instructional time for 2017–18, it was discovered that Standard Elementary School failed to offer the required 36,000 annual minutes in two morning kindergarten classrooms by 570 minutes. Adjustments to the lunch schedule were made without any change to the start time for the morning kindergarten classrooms. The change to the lunch period reduced the instructional time for the morning kindergarten classrooms by five minutes each day. This resulted in a shortage of instructional minutes.

SESD would like to use school years 2019–20 and 2020–21 to make up the shortfall of the instructional minutes. SESD submitted documentation showing Standard Elementary School will offer additional minutes for kindergarten classrooms during the 2019–20 and 2020–21 school years to comply with the terms of the waiver.

**Demographic Information:**

SESD has a student population of 3,100 and is located in a rural area in Kern County.

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

The SBE has approved similar requests with conditions. *EC* Section 46206 authorizes waivers to be granted for fiscal penalties due to a shortfall in instructional time. A waiver may be granted upon the condition that the school, or schools, in which the minutes were lost, maintain minutes of instruction equal to those lost, in addition to the minimum amount required for twice the number of years that it failed to maintain the required minimum length of time.

**Fiscal Analysis**

The SESD 2017–18 penalty amount of $44,457 is calculated as follows (some differences due to rounding):

* The average daily attendance of 305.77 for all kindergarten students multiplied by the district’s funding rate of $9,202.17 (transition rate) is equal to the district’s Local Control Funding Formula (LCFF) apportionment of $2,813,748.
* A shortfall of 570 instructional minutes for kindergarten divided by the 36,000 minute requirement is equal to 1.58 percent of minutes not offered.
* The affected LCFF apportionment of $2,813,748 multiplied by the percentage of minutes not offered is equal to the penalty amount of $44,457.

**Attachment(s)**

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** SESD Specific Waiver Request 8-4-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 46201

| **Waiver  Number** | **District** | **Period of Request** | **District’s Request** | **CDE Recommended Action** | **Bargaining Unit Representatives Consulted, Date, and Position** | **Local Board and Public Hearing Approval** | **Penalty Without Waiver** | **Previous Waivers** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 8-4-2019 | Standard Elementary School District | **Requested:**  August 14, 2019, to May 26, 2021  **Recommended:**  July 1, 2017, to June 30, 2018 | District requests waiving *EC* Section 46201 to avoid the audit penalty in exchange for offering increased instructional minutes in 2019–20 and 2020–21, consistent with *EC* Section 46206. | **Approval** of waiver, consistent with *EC* Section 46206 with the following conditions:  (1) District maintains increased instructional minutes at Standard Elementary School of at least the amount required by law plus 570 minutes for a period of two years beginning in 2019–20 through 2020–21, and (2) District reports the annual increased instructional minutes offered in its annual audit report. | Meriellen Cohrs, President  Standard Teachers Association  March 21, 2019  **Support** | Local Board Approval  March 30, 2019 | $44,457 | None |

Created by California Department of Education

April 2019

# Attachment 2: Standard Elementary School District Specific Waiver Request 8-4-2019

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 1563792

Waiver Number: 8-4-2019

Active Year: 2019

Date In: 4/12/2019 9:07:54 AM

Local Education Agency: Standard Elementary School District

Address: 1200 North Chester Ave.

Bakersfield, CA 93308

Start: 8/14/2019

End: 5/26/2021

Waiver Renewal: No

Waiver Topic: Instructional Time Requirement Audit Penalty

Ed Code Title: Below 1982-83 Base Minimum Minutes

Ed Code Section: 46201

Ed Code Authority: 46206

Ed Code or *CCR* to Waive: The Standard School District requests a State Board of Education waiver of *EC* 46201 for failing to provide the prescribed minimum length of time in AM Kindergarten for a portion of the 2017-18 school year.

*Education Code* 46201. (a) For each school district that received an apportionment pursuant to subdivision (a) of this section, as it read on January 1, 2013, and that reduces the amount of instructional time offered below the minimum amounts specified in subdivision (b), the Superintendent shall withhold from the school district’s local control funding formula grant apportionment pursuant to Section 42238.02, as implemented by Section 42238.03, for the average daily attendance of each affected grade level, the sum of that apportionment multiplied by the percentage of the minimum offered minutes at that grade level that the school district failed to offer.

(b) Commencing with the 2013–14 fiscal year:

[(1) Thirty-six thousand minutes in kindergarten.]

(2) Fifty thousand four hundred minutes in grades 1 to 3, inclusive.

(3) Fifty-four thousand minutes in grades 4 to 8, inclusive.

(4) Sixty-four thousand eight hundred minutes in grades 9 to 12, inclusive.

(Amended by Stats. 2013, Ch. 357, Sec. 30. (SB 97) Effective September 26, 2013.)

Outcome Rationale: In order to improve the flow of students in and out of the school cafeteria, site administration changed the lunch time for AM Kindergarten students from 11:20 to 11:15 a.m., but failed to adjust the starting time from 8:00 a.m. to 7:55 a.m. As a result, two AM Kindergarten classrooms at Standard Elementary School had their instructional day shortened by 5 minutes and resulted in the decrease of the daily instructional minutes to 195 minutes instead of the typical 200 minutes. This error was caught in February and the bell schedule was changed back to the previous year’s bell schedule of 8:00 a.m. – 11:20 a.m., and returned to providing 200 minutes of instructional time. Consequently, there was a shortfall in the yearly requirement that instructional minutes meet or exceed 36,000 annually.

Pursuant to *EC* 46206, in lieu of a fiscal penalty incurred as a result of a shortfall on instructional time in the 2017-18 school year, the Standard School District proposes to increase the length of Kindergarten by 5 minutes a day, or 900 minutes each year for two years - 2019-20 and 2020-21 school years. A copy of the instructional minute worksheet, proposed bell schedule and school calendar has been attach to support this request.

Student Population: 3100

City Type: Rural

Local Board Approval Date: 3/30/2019

Audit Penalty Yes or No: Yes

Categorical Program Monitoring: No

Submitted by: Mr. Paul Meyers

Position: Superintendent

E-mail: [pmeyers@standardschools.net](mailto:pmeyers@standardschools.net)

Telephone: 661-392-2110

Bargaining Unit Date: 03/21/2019

Name: Standard Teachers Association (STA)

Representative: Merriellen Cohrs

Title: President, STA

Position: Support