

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education January 2020 Agenda Item #W-03

## Subject

Request by **Elkins Elementary School District** to waive portions of California *Education Code* sections 35780, 35782, and 35783, which will allow that district to lapse.

## Waiver Number

10-10-2019

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Elkins Elementary School District (ESD), which operates under the jurisdiction of the Tehama County Superintendent of Schools (County Superintendent), has been deficit spending for years. The district is unable to continue expenditure reductions without jeopardizing the education and safety of students—both the County Superintendent and the Elkins ESD believe the only fiscal alternative for the district is dissolution and annexation to an adjacent district. Pursuant to *Education Code* (*EC*) Section 35780 an elementary school district is required to lapse if that district’s average daily attendance (ADA) in first through eighth grade falls below six. Elkins ESD does not fall below this lapsation threshold (current enrollment is nine) and is requesting that the SBE waive the threshold. Approval of the waiver request will allow the Elkins ESD to lapse regardless of district enrollment. If the California State Board of Education (SBE) approves the waiver request, the Elkins ESD will lapse into an adjacent district for the 2020–21 school year.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

## Summary of Key Issues

*EC* Section 35780 requires each county committee on school district organization (county committee) to lapse an elementary school district if that district’s ADA in first through eighth grade falls below six. Under this requirement, the county committee must dissolve the district and annex it to one or more adjacent school districts.

The Elkins ESD has been under financial stress for a number of years. The district is no longer eligible to receive necessary small school (NSS) funding due to statutory changes to the eligibility criteria. As a result, the district’s base funding is determined using a per-ADA amount instead of an NSS allowance that recognizes operational cost on a classroom basis. The Elkins ESD has operated a skeleton budget and has reduced its reserves significantly under these revenue restrictions. Both the district and the County Superintendent agree that expenditures cannot be reduced below current levels without jeopardizing student learning and safety—and further agree that the only fiscal remedy available is to dissolve the Elkins ESD and annex its territory to an adjacent school district.[[1]](#footnote-1)

Current district enrollment is nine, which is above the *EC* Section 35780 level triggering a lapsation. SBE approval of the waiver request will remove this enrollment condition for lapsation—thus, requiring the Tehama County Committee to lapse the Elkins ESD regardless of district enrollment.

The district also requests that the SBE waive portions of *EC* sections 35782 and 35783, which provide the local timelines for County Committee action to lapse a district. The purpose of the timelines is to ensure the County Committee has the most current ADA data (Second Principal Apportionment) before initiating the lapsation process. These timelines are unnecessary since lapsation of the Elkins ESD will not be dependent upon the district’s ADA level if the waiver request is approved. Additionally, waiver of the timelines will provide the County Committee and affected school districts greater flexibility in the lapsation process.

The CDE recommends that the SBE approve the request by the Elkins ESD to waive portions of *EC* sections 35780, 35782, and 35783 regarding district lapsation. There has been no local opposition to the waiver request reported and the CDE has determined that none of the grounds specified in *EC* Section 33051(a), which authorize denial of a waiver, exist.

**Demographic Information:** The Elkins ESD has a student population of nine and is located in a rural area of Tehama 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 similar waivers—most recently for lapsation of the Feather Falls Union ESD (Butte County) at the January 2019 SBE meeting.

## Fiscal Analysis (as appropriate)

Approval of the waiver request will not have negative fiscal effects on any local or state agency.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Elkins Elementary School District General Waiver Request Waiver # 10-10-2019 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* sections 35780, 35782, and 35783

| **Waiver Number** | **District** | **Period of Request** | **Bargaining Unit Representatives Consulted** | **Public Hearing and Board Date** | **Advisory Committee Position** |
| --- | --- | --- | --- | --- | --- |
| 10-10-2019 | Elkins Elementary School District | **Requested:** May 1, 2019, to June 30, 2020  **Recommended:** May 1, 2019, to July 1, 2020 | The district has no bargaining units. | September 10, 2019 | Elkins School Site Council  September 5, 2019  **No objections** |

Created by California Department of Education  
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# Attachment 2 General Waiver Request 10-10-2019 Elkins Elementary School District

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 5271514

Waiver Number: 10-10-2019

Active Year: 2019

Date In: 10/23/2019 12:03:22 PM

Local Education Agency: Elkins Elementary

Address: 2960 Elkins Rd.

Paskenta, CA 96074

Start: 5/1/2019

End: 6/30/2020

Waiver Renewal: No

Waiver Topic: School District Reorganization

Ed Code Title: Lapsation of a Small District

Ed Code Section: 35780,35782,35783

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: *Education Code* 35780. (a) A school district that has been organized for more than three years shall be lapsed as provided in this article [if the number of registered electors in the school district is less than six or if the average daily attendance of pupils in the school or schools maintained by the school district is less than six in grades 1 through 8 or is less than 11 in grades 9 through 12], except that for any unified district that has established and continues to operate at least one senior high school, the board of supervisors shall defer the lapsation of the school district for one year upon a written request of the governing board of the school district and written concurrence of the county committee. The board of supervisors shall make no more than three such deferments.

*Education Code* 35782. [Within 45 days before the close of each school year], the county committee shall conduct a public hearing on the issues specified in Section 35780. Notice of the public hearing shall be given at least 10 days in advance of the hearing to each member of the governing board of the lapsed district immediately before its lapsation, to each of the governing boards that adjoin the lapsed district, and to the high school district of which the lapsed elementary district is a component.

*Education Code* 35783 After the hearing, [and at least 30 days before the end of the school year], the county committee shall order the territory annexed to one or more adjoining districts as seems to the county committee to be in the best interest of the adjoining districts and the residents of the lapsed district.

Outcome Rationale: The passage of the Local Control Funding Formula in 2013-14 also made changes to education codes governing necessary small school funding. As a result of those changes, Elkins ESD became ineligible to receive necessary small school block grant funding and revenues have been permanently frozen at 2012-13 levels which were subject to a deficit of approximately 20%. Elkins ESD has been operating on a skeleton budget since the cuts to school funding in 2009-10 and has significantly reduced their reserves. Expenditures cannot be reduced any further than they are without jeopardizing student learning and safety. Furthermore, the unique model of having a retiree as the teacher and superintendent is the main reason the districts was able to continue operations. The only remedy available to the District is to reorganize with an adjacent district in a timely enough fashion to allow for the continued public education of resident students.

Student Population: 9

City Type: Rural

Public Hearing Date: 9/10/2019

Public Hearing Advertised: Posted at three places in the district and on the district website [www.elkinsschoolca.org](http://www.elkinsschoolca.org/)

Local Board Approval Date: 9/10/2019

Community Council Reviewed By: Site Council

Community Council Reviewed Date: 9/5/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Tammi Jensen

Position: CBO

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1. Under an already approved agreement, the Elkins ESD will be annexed to the Flournoy Union ESD (with a 2018–19 enrollment of 35 students) if the SBE approves this waiver request. [↑](#footnote-ref-1)