

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Child Specific NPA or NPS Certification

# California State Board of Education January 2020 Agenda Item #W-12

## Subject

Request by **William S. Hart Union High School District** to waive California *Education Code* (*EC*) Section 56366(d), the requirement for nonpublic, nonsectarian schools or agencies to be state-certified, to allow the use of state and federal special education funds for the placement of one student with disabilities at an uncertified out-of-state school located in Hurricane, Utah.

## Waiver Number

14-4-2019

## Type of Action

Action, Consent

## Summary of the Issue(s)

The William S. Hart Union High School District (WSHUHSD) requests to waive California *Education Code* (*EC*) Section 56366.1(a), the requirement for state certification, to allow the use of federal and state special education funds for the placement of one high school student with disabilities at the Liahona Academy (LA), an uncertified out-of-state school located in Hurricane, Utah (UT). This waiver is retroactive as the period of the waiver request is March 14, 2019 through June 4, 2019. The student graduated from high school on June 4, 2019.

After exhausting all district placement options, the WSHUHSD contacted California certified in-state and out-of-state nonpublic schools (NPSs) and nonpublic agencies (NPAs) with residential treatment centers (RTC) to offer a free appropriate public education (FAPE) to one high school student with significant social-emotional needs. None of these placement options would accept the student, or could meet the student’s comprehensive, unique needs.

The student’s individualized education program (IEP) team, which includes the student’s parents, agreed the LA, an out-of-state uncertified school and RTC, would be able to meet the student’s comprehensive, unique needs to provide the student with a FAPE. The student was able to complete their graduation requirements during their placement at the LA.

## Background

Under the federal Individuals with Disabilities Education Act (IDEA), students with disabilities must be offered a FAPE in the least restrictive environment (LRE). Local Educational Agencies (LEA) must offer a full continuum of program options to meet the educational and related service needs of students with disabilities. Each student found eligible for special education and related services is provided with an IEP which is developed between the LEA and the student’s parent(s) or guardian(s), and others as applicable, to decide what types of instruction and related services are needed to meet the student’s needs in the LRE. One of the placement options available along this continuum are NPSs, which are considered separate schools and highly restrictive placement options.

When an LEA is unable to find an appropriate placement for a student with disabilities in a California public school and/or state-certified NPS due to the student’s comprehensive, unique needs, the IEP team may deem it necessary for the student to be placed in an uncertified school that is able to meet the student’s needs. As members of the IEP team, the student’s parents must be included in the decision-making process and must provide written consent to the placement.

Upon the receipt of a child specific NPS waiver, the CDE ensures the LEA submitted all required documentation and performs a detailed analysis of the documentation. If the waiver request meets all of the waiver requirements, the SED will recommend approval of the waiver with conditions.

## Recommendation

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

The WSHUHSD submitted all required documents as part of its waiver request, and reported that every month during the student’s placement at the LA they consulted with the LA liaison to monitor the provision of services, and contacted the student and the student’s parents to discuss treatment progress and any concerns.

As the steps performed by the WSHUHSD mirror those conditions the CDE would have recommended in this type of situation, the CDE recommends approval of this waiver for the period requested: March 14, 2019 through June 4, 2019. The need for additional conditions for monitoring of the student’s placement is no longer necessary as this student has graduated. In the event the waiver is denied, the LEA may only use local funds to pay for the student’s placement at the LA.

## Summary of Key Issues

Prior to the student’s placement at the LA the student was placed at their local high school and provided with intensive individual counseling services. The WSHUHSD and the student’s parents sought residential placement due to the student’s significant social-emotional disabilities and history of running away from school. The student required a secure, structured therapeutic-based setting to ensure their safety and allow them to work on credit recovery to complete their high school graduation requirements. The WSHUHSD, in conjunction with the student’s parents, contacted two in-state, and five out-of-state NPSs having RTCs with therapeutic and academic supports in secure settings. Some of these NPSs denied the student admission based on the student’s past behaviors, and others were eliminated due to either recent dangerous occurrences at the school, or the school not being able to provide the needed level of security. The LA, an uncertified school and RTC located in Hurricane, UT, accepted the student into their program where the student made significant progress and was able to complete their high school graduation requirements.

If the SBE approves the waiver the WSHUHSD will be able to use state and federal special education funds for the placement of this student at the LA for the period requested.

**Demographic Information:** The WSHUHSD has a student population of 22,661 and is located in a rural area in Los Angeles County.

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

Within the past two years, the State Board of Education has received and approved nine waivers similar to this allowing LEAs to waive *EC* Section 56366.1(a), the requirement for state certification.

## Fiscal Analysis (as appropriate)

If this waiver is approved, WSHUHSD may utilize state and federal special education funds for the placement of this student at the LA. If this waiver is denied, the WSHUHSD may utilize only local funds to support the student’s placement at the LA.

The cost for placement at the LA for this student was $149,145, and included regular school year instruction and room and board.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** William S. Hart Union High School District Specific Waiver Request 14-4-2019 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* Section 56366(d)

| Waiver Number | District | Period of Request | District’s Request | CDE Recommended | Local Board and Public Hearing Approval | Penalty Without Waiver | Previous Waivers |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 14-4-2019 | William S. Hart Union High School District (WSHUHSD) | **Requested:**  March 14, 2019, to June 4, 2019  **Recommended:** March 14, 2019, to June 4, 2019  (Note: This waiver is retroactive. The student graduated from high school on June 4, 2019.) | To waive nonpublic school (NPS) certification to allow WSHUHSD to use state and federal special education funds for the placement of a student at the uncertified out-of-state NPS | Approval with conditions for the period requested | April 17, 2019 | The WSHUHSD may not use state and federal special education funds for the placement of the student at the uncertified out-of-state NPS | None |

Created by California Department of Education

September 2019

# Attachment 2: Waiver 14-4-2019 William S. Hart Union High School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 1965136

Waiver Number: 14-4-2019

Active Year: 2019

Date In: 4/18/2019 11:18:52 AM

Local Education Agency: William S. Hart Union High School District

Address: 21380 Centre Pointe Pkwy.

Santa Clarita, CA 91350

Start: 3/14/2019

End: 6/4/2019

Waiver Renewal: No

Waiver Topic: Special Education Program

Ed Code Title: Child Specific/ NPA or NPS Certification

Ed Code Section: 56365[h]

Ed Code Authority: 56101

Ed Code or *CCR* to Waive: (h) In addition to meeting the requirements of Section 56366.1 , a nonpublic, nonsectarian school or agency that operates a program outside of this state [shall be certified or licensed by that state] to provide, respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act ( 20 U.S.C. Sec. 1400 et seq. ).

Outcome Rationale: The student was having difficulties at home and school which prompted his parents to find a treatment center to address his needs. After making placement and seeing substantial progress it was deemed appropriate that he stay at the facility to finish high school as well as his therapeutic goals. In order for the district and the treatment facility to coordinate properly his progress an IEP was held to prepare the next steps that will aid in the student's transition back home shortly after graduation.

Student Population: 48

City Type: Rural

Local Board Approval Date: 4/17/2019

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Janell Wheeler

Position: Account Tech

E-mail: [jwheeler@hartdistrict.org](file:///\\CDE.Cal\DATA\SEDATA\CENTRAL\Division-wide\WAIVERS\Waiver%20Items\2019\11-November%20SBE%20Meeting\jwheeler@hartdistrict.org)

Telephone: 661-259-0033 x376

Fax: 661-259-6951