

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education July 2020 Agenda Item #W-11

## Subject

Request by two local educational agencies to waive *Education Code* Section 56362(c), allowing the caseloads of resource specialists to exceed the maximum caseload of 28 students by no more than four students (32 maximum).

## Waiver Number

* Butte County Office of Education 22-3-2020
* Rescue Union Elementary School District 2-4-2020

## Type of Action

Action, Consent

## Summary of the Issue(s)

Two local educational agencies (LEAs) request to increase the caseloads of two resource specialists 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 District must provide each resource specialist instructional aide time of at least five hours daily whenever the resource specialists’ caseloads exceed 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).

## 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, Special Education Division (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.

**Butte County Office of Education (22-3-2020)**

The Butte County Office of Education (BCOE) requests to increase the caseload of Jordan Pollard, resource specialist at Hearthstone Charter School. The CDE recommends approval with conditions. There have been no prior documented complaints registered with the CDE related to this school district exceeding the maximum RSP caseload of 28 students, nor has the BCOE applied for a waiver within the previous two years. The resource specialist agreed to the waiver and was provided with the required amount of instructional aide time.

Students are currently receiving their RSP services through remote learning platforms due to the closure of Hearthstone Charter School’s physical school site. Individualized education programs were amended to better support students and resource specialists for distance learning. In addition, the BCOE is attempting to recruit an additional RSP teacher for the 2020–2021 school year.

**Demographic Information:** The BCOE has a student population of 1,257 and is located in a rural area in Butte County.

**Rescue Union Elementary School District (2-4-2020)**

The Rescue Union Elementary School District (RUESD) requests to increase the caseload of April Kvam, resource specialist at Rescue Elementary School. The CDE recommends approval with conditions. There have been no prior documented complaints registered with the CDE related to this school district exceeding the maximum RSP caseload of 28 students, nor has the RUESD applied for a waiver within the previous two years. The resource specialist agreed to the waiver and was provided with the required amount of instructional aide time.

The RUESD put processes in place to support their students and resource specialists for distance learning. They are currently reviewing RSP caseload numbers for the   
2020-2021 school year to determine whether there is a need to hire an additional resource specialist.

**Demographic Information:** The RUESD has a student population of 3,362 and is located in a rural area in Placer 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 (2 pages)
* **Attachment 2:** Butte County Office of Education Waiver 22-3-2020   
  (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Rescue Union Elementary School District Waiver 2-4-2020   
  (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 4:** Resource Specialist Caseload Waiver Request, Administrator Supplemental Form (Waiver 22-3-2020) (3 pages).
* **Attachment 5:** Resource Specialist Caseload Waiver Request, Teacher Supplemental Form (Waiver 22-3-2020) (4 pages).
* **Attachment 6:** Resource Specialist Caseload Waiver Request, Administrator Supplemental Form (Waiver 2-4-2020) (3 pages).
* **Attachment 7:** Resource Specialist Caseload Waiver Request, Teacher Supplemental Form (Waiver 2-4-2020) (4 pages).

# Attachment 1: Summary Table

California *Education Code* 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 |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 22-3-2020 | Butte County Office of Education, Hearthstone Charter School | Jordan Pollard  **Yes** | No | **Previous:** 6.5 hours per day  **Current:** 5 hours per day due to distance learning | **Requested**  March 10, 2020,  to June 30, 2020  **Recommended** March 10, 2020,  to June 30, 2020 | March 9, 2020 | Butte County Teachers Association Nicole Eads  President 2/7/2020  Neutral |
| 2-4-2020 | Rescue Union Elementary School District, Rescue Elementary | April Kvam  **Yes** | No | **Previous:** 5. hours per day  **Current:** 5 hours per day | **Requested**  February 19, 2020, to  June 1, 2020  **Recommended**  February 19, 2020, to  June 1, 2020 | March 10, 2020 | Rescue Union Federation of Teachers, Laurisa Stuart President  1/24/2020 Support |

Created by California Department of Education   
May 2020

# Attachment 2: Waiver 22-3-2020 Butte County Office of Education

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 0410041

Waiver Number: 22-3-2020

Active Year: 2020

Date In: 3/17/2020 9:07:35 AM

Local Education Agency: Butte County Office of Education

Address: 1859 Bird St.

Oroville, CA 95965

Start: 3/10/2020

End: 6/30/2020

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: No Resource specialist shall have a caseload which exceeds 28 pupils

Outcome Rationale: Hearthstone Charter School has experienced increased enrollment that has a higher than typical special education population. Students who may not be successful in neighboring districts within the county enroll in this county run charter school. This includes a high rate of students with disabilities.

Student Population: 30

City Type: Rural

Local Board Approval Date: 3/9/2020

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Stacy Doughman

Position: Senior Director, Special Education

E-mail: [sdoughma@bcoe.org](mailto:sdoughma@bcoe.org)

Telephone: 530-532-5791

Bargaining Unit Date: 02/07/2020

Name: BCTA

Representative: Nicole Eads

Title: President

Phone: 530-879-2343

Position: Neutral

Comments:

# Attachment 3: Waiver 2-4-2020 Rescue Union School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 0961978

Waiver Number: 2-4-2020

Active Year: 2020

Date In: 4/8/2020 9:08:59 AM

Local Education Agency: Rescue Union Elementary

Address: 2390 Bass Lake Rd.

Rescue, CA 95672

Start: 2/19/2020

End: 6/1/2020

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: *CCR*, Title 5, Section 3100(d)

Outcome Rationale: There has been a recent increase in students with IEPs in the District. Resource Specialist Programs at neighboring schools are too full to take overflow students.

Student Population: 3700

City Type: Rural

Local Board Approval Date: 3/10/2020

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Cheryl Olson

Position: Superintendent

E-mail: [colson@my.rescueusd.org](mailto:colson@my.rescueusd.org)  
Telephone: 530-355-9415

Fax: 530-672-1889

Bargaining Unit Date:

Name:

Representative:

Title: President

Phone:

Position:

Comments: