

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of Education May 2020 Agenda Item #W-02

## Subject

Requests by the **Santa Ana Unified School District** for a renewal waiver of California *Education Code* Section 48916.1(d), and portions of California *Education Code* Section 48660 to permit the REACH Academy Community Day School to serve students in grade six with students in grades seven through twelve, but no grade lower than grade six. The **Santa Ana Unified School District** is also requesting a waiver of portions of California *Education Code* Section 48661 to permit the Community Day School to be collocated on the same site as the REACH Academy Night Program, an alternative program of choice serving students enrolled in the district’s continuation and traditional high schools.

## Waiver Numbers

* Santa Ana Unified School District 28-1-2020
* Santa Ana Unified School District 29-1-2020

## Type of Action

Action, Consent

## Summary of the Issue(s)

Request by the Santa Ana Unified School District (SAUSD) for a renewal waiver of California *Education Code* (*EC*) Section 48916.1(d), and portions of *EC* Section 48660 to permit the REACH Academy Community Day School (RACDS) to serve students in grade six with students in grades seven through twelve, but no grade lower than grade six. The SAUSD is also requesting a waiver of portions of *EC* Section 48661 to permit the Community Day School (CDS) to be collocated on the same site as the REACH Academy Night Program (RANP), an alternative program of choice serving students enrolled in the district’s continuation and traditional high schools who need additional support after their regular school day to participate in a credit recovery program.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

The California Department of Education recommends approval of this waiver with the following conditions:

* The RACDS shall be permitted to serve students in grade six with students in grades seven through twelve, but no grade lower than grade six.
* Middle grade students enrolled in the RACDS shall not be educated in combination with students in high school grades.
* In accordance with *EC* Section 48661(b), the SAUSD shall maintain its certification for the duration of the collocation waiver on the basis of a two-thirds annual vote of the local governing board that satisfactory alternative facilities are not available for a CDS.
* The RANP students shall not be on the shared campus during the RACDS instructional day.

## Summary of Key Issues

*EC* Section 48916.1(a) requires school districts to ensure that each of their expelled students be provided an educational program during the period of expulsion.

*EC* Section 48660 provides that the governing board of a school district may establish one or more CDSs. *EC* Section 48660 also provides that a CDS may serve pupils in a CDS in any of kindergarten and grades one to six, inclusive, or any of grades seven to twelve, inclusive, or the same or lesser included range of grades as may be found in any individual middle or junior high school operated by the district. *EC* Section 48916.1(d) provides for the allowable grade spans of educational services for expelled students.

The SAUSD, while a large urban district of 47,000 students, has been determined, through use of other means of correction, to greatly limit enrollment in its CDS to serve only approximately 60 students at a time. Throughout the district, the SAUSD serves students in the common structure of elementary (kindergarten through grade five), intermediate (grades six through eight), and high school (grades nine through twelve). Consistent with *EC* Section 48660, the SAUSD has served students in grades seven through twelve in its CDS, separating middle school and high school students, but not enrolling middle grade students in grade six.

The district does not expect more than a small number of sixth grade students to be enrolled in the CDS. It is not fiscally feasible to operate two CDSs, one for students in grades one through six, and a second for grades seven through twelve. At the same time, the SAUSD recognizes its responsibility to ensure that educational placements are available for expelled and other high-risk students. Within the last five years, the SAUSD has only had 12 sixth grade students for whom they have had to find alternative placements outside the district; however, the district believes they could better serve the few sixth graders needing such an alternative placement if these students could remain within the district and receive supportive instruction, including a wide range of mental health support, in the SAUSD CDS with other middle school students. Therefore, the SAUSD is requesting the renewal of its waiver to continue to maintain the grade span of its CDS to serve grades six through twelve overall, while maintaining its current framework of educating the middle and high school CDS students separately.

The SAUSD is confident that allowing a larger grade span will not diminish the program’s effectiveness. The RACDS operates with a very low educator to student ratio serving 5 to 10 students per class distributed between 11 classrooms. The middle school teachers have experience teaching sixth grade. A strong focus on campus is on mental health support and wrap around services for students, with staff including the principal, a psychologist, a counselor, a mental health therapist, a gang interventionist, representation from Project Kinship and outreach consultants, a resource specialist, paraeducators, and a heart program provider. Bathrooms only are for a single student at a time under supervision of the school safety officer. During lunch, additional supervision is provided by certificated and classified staff, the district security officer, and school police.

*EC* Section 48661(a) states that a CDS shall not be situated on the same site as a comprehensive elementary, middle, or high school, continuation high school, or an opportunity school. *EC* Section 48661(a) authorizes a small school district with 2,500 or fewer students to waive the separation requirement based on an annual certification by at least two-thirds of the local board when separate alternative facilities are not available. The SAUSD, with an enrollment of 47,000 students, is requesting this waiver to authorize it to act similar to a small school district.

The RANP would run Monday through Friday from 3:30 p.m. to 8:00 p.m. on the same site used by the RACDS during the day. This would give enough time for all CDS students to leave campus and for the night time students to come to campus while site staff can provide strong supervision to avoid having any issues or conflicts during the transition.

The SAUSD currently has over 1,000 students who are 30 or more credits deficient. As a result, each quarter students who are in need of credit recovery are passed over, and in many cases their credit recovery need increases until they are prioritized for enrollment in continuation when a spot is available. However, by that time it is often too late for students to meet graduation standards and some dropout. In order to have this opportunity the SAUSD is proposing to establish the RANP to operate after regular school hours, including nighttime offerings.

The RANP would serve three types of SAUSD students. These include students who need credit recovery but who cannot attend continuation school due to being too young to meet statutory age restrictions, students who need credit recovery and are eligible for continuation education but there is no space in the continuation high schools, and students in traditional high schools who need additional access to a credit recovery program after regular school hours. The RANP would offer a flexible structure to address students needs as they arise and not be tied to semester restrictions. Students could remain at their home school for dual enrollment as well.

The local board voted unanimously to request the waiver. The Santa Ana Educators’ Association supports the waiver through its president, Barbara Pearson. The School Site Council had no objections.

**Demographic Information:**

The SAUSD has a student population of 47,000 students and is located in an urban setting in Orange County.

**Because this is a general waiver, if the State Board of Education (SBE) decides to deny the waiver, it must cite one of the seven reasons in *EC* Section 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 several previous waiver requests from unified school districts requesting authorization to permit a CDS to serve students in grades six through twelve, inclusive, allowing the district to serve all of its middle school students in need of CDS services when separate alternative facilities for the sixth grade students are not feasible, including the current active waiver that was granted to the SAUSD. The SBE has also approved several previous waiver requests from school districts requesting authorization to permit a CDS to be collocated with other schools and programs upon a two-thirds vote of the local board when a separate alternative facility for the CDS was not feasible.

## Fiscal Analysis (as appropriate)

There is no statewide fiscal impact of this waiver renewal and approval.

## Attachment(s)

* **Attachment 1:** Summary Table of Community Day School State Board of Education Waiver (1 page)
* **Attachment 2:** Santa Ana Unified School District General Waiver Request 28-1-2020 (3 pages). (Original Waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Santa Ana Unified School District General Waiver Request 29-1-2020 (3 pages). (Original Waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table of Community Day School State Board of Education Waiver

California *Education Code* Section 48916.1(d) and portions of sections 48660 and 48661

| WaiverNumber | District Name,Size of District, andLocal BoardApproval Date | Period of Request | If granted, this waiver will be "permanent"per *EC* Section 33501(b) | Bargaining Unit Name and Representative,Date of Action,and Position | Advisory Committee/Schoolsite Council Name,Date of Reviewand Any Objections |
| --- | --- | --- | --- | --- | --- |
| 28-1-2020  29-1-2020 | Santa Ana Unified School District  47,000 Students  60 Students in REACH Academy Community Day School  75–100 Students in REACH Academy Night Program  January 10, 2020 | **Requested:**  August 1, 2020  through  June 30, 2021  **Recommended:**  August 1, 2020  Through  June 30, 2021 | No | Santa Ana Educators’ Association  Barbara Pearson,  President  February 6, 2019  **Support** | School Site Council  February 6, 2019  **No Objections** |

Created by California Department of Education

July 8, 2019

# Attachment 2: Santa Ana Unified School District General Waiver Request 28-1-2020

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 3066670

Waiver Number: 28-1-2020

Active Year: 2020

Date In: 1/31/2020 10:33:48 AM

Local Education Agency: Santa Ana Unified

Address: 1601 East Chestnut Ave.

Santa Ana, CA 92701

Start: 8/1/2020

End: 6/30/2021

Waiver Renewal: Yes

Previous Waiver Number: 6-3-2019-W-03

Previous SBE Approval Date: 7/10/2019

Waiver Topic: Community Day Schools (CDS)

Ed Code Title: Colocate Facilities and Commingle Grade Levels

Ed Code Section: 48916.1(d) and portions of 48660 and 48661(a)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: *Education Code* or *CCR* to Waive: 48660. The governing board of a school district may establish one or more community day schools for pupils who meet one or more of the conditions described in subdivision (b) of Section 48662. A community day school may serve pupils in any of kindergarten and grades 1 [to 6, inclusive, or any of grades] 7 to 12, inclusive, or the same or lesser included range of grades as may be found in any individual middle or junior high school operated by the district. If a school district is organized as a district that serves kindergarten and grades 1 to 8, inclusive, but no higher grades, the governing board of the school district may establish a community day school for any [of] kindergarten and grades 1 to 8, inclusive, upon two-thirds vote of the board. It is the intent of the Legislature, that to the extent possible, the governing board of a school district operating a community day school for any of kindergarten and grades 1 to 8, inclusive, separate younger pupils from older pupils within that community day school unless it meets all the conditions of apportionment set forth in the article. 48916.1. (d) [If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) shall not be combined or merged with educational programs offered to pupils in any of grades 7 to 12, inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district. This subdivision, as it relates to the separation of pupils by grade levels, does not apply to community day schools offering instruction in any of kindergarten and grades 1 to 8, inclusive, and established in accordance with Section 48660.]

Outcome Rationale: The Board’s rationale for this waiver is to be able to utilize the Community Day School in a wider grade span. Due to economic issue that state is in, it is necessary to combine multiple grade levels into one CDS. The district’s CDS have been traditionally very small, serving 5 to 10 students per class at any given time. Allowing a larger grade span will not diminish the program’s effectiveness It will allow the district/state to be able to serve more students. Currently, expelled students in the 6th grade would have to travel outside of the district to Axxess campuses for support. Allowing the district this flexibility during these economic times will give students more education options and not cost the district or state more money.

We separate students from different classes, where our middle school students are separated from our High School students and do not take classes with them. Because our campus is so small, bathroom use is separated that only one student is able to use the bathroom at a time. Each teacher communicates with our safety officer to see if the bathroom is open. Once the student is done using that bathroom and back in their classroom then the next student is allowed to use the bathroom.

Our campus is a total of 11 classrooms, so things are very small and supervision is constant in between passing periods and lunch time as well. Safety is one of our prime concerns and focal points. During lunch time we have a total of 7-9 adults, (certificated, classified, District Security Officer and School Police) out during lunch time.

Another focal point in our in our campus is all of the mental health support that we give our students. We continue to serve with our wrap around services (Principal, Psychologist, DIS Counselor, Mental Health Therapist, Gang Interventionist-Project Kinship, Outreach consultants, Resource Specialist, Paraeducators, Heart Program) to fully support our students and will continue these support systems with any 6th grade students that we receive as well.

Our current multiple subject teachers already have experience in teaching 6th grade, but we will also be sending them to district trainings that are subject and grade specific to help support them if the need arises for us to have 6th graders on campus.

With the economic pressures facing schools, currently the district is unable to fund two full programs. We are requesting to have a waiver to expand our CDS to 6 through 12.

Within the five years we have only had 12 students that have needed to find alternative placement in the 6th grade. With those statistics beings small and remote we do not anticipate having more than a 4:1 student to teacher ratio in regards to the 6th grade cohort. With this ratio there is plenty of individualized instruction. There are even times when there are no students enrolled (6th grade) and then there are times when there are only middle school students (7th and 8th grade) and others when there are only high school students. With the needs being so flexible we need more flexibility in our program to serve our students.

Student Population: 60

City Type: Urban

Public Hearing Date: 1/14/2020

Public Hearing Advertised: Various postings on the district website with agenda posted for the public to be notified about the proposal

Local Board Approval Date: 1/10/2020

Community Council Reviewed By: School Site Council

Community Council Reviewed Date: 11/12/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Chad Greendale

Position: Principal

E-mail: [chad.greendale@sausd.us](mailto:chad.greendale@sausd.us)

Telephone: 714-431-1800 x61801

Bargaining Unit Date: 11/12/2019  
Name: SAEA  
Representative: Barbara Pearson  
Title: President of Teachers Union  
Phone: 714-542-6758  
Position: Support  
Comments:

# Attachment 3: Santa Ana Unified School District General Waiver Request 29-1-2020

CD Code: 3066670

Waiver Number: 29-1-2020

Active Year: 2020

Date In: 1/31/2020 11:08:20 AM

Local Education Agency: Santa Ana Unified

Address: 1601 East Chestnut Ave.

Santa Ana, CA 92701

Start: 8/1/2020

End: 6/30/2021

Waiver Renewal: N

Waiver Topic: Community Day Schools (CDS)

Ed Code Title: Colocate Facilities

Ed Code Section: 48661(a)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: 48661. (a) A community day school shall not be situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation school, except as follows:

(1) When the governing board of a school district with 2,500 or fewer units of average daily attendance reported for the most recent second principal apportionment certifies by a two-thirds vote of its membership that satisfactory alternative facilities are not available for a community day school.

(b) A certification made pursuant to this section is valid for not more than one school year and may be renewed by a subsequent two-thirds vote of the governing board.

Outcome Rationale: The purpose of the REACH Academy Night program is to serve the students of SAUSD in three areas of need: credit recovery, to REACH those students that need credit recovery but can’t attend Chavez or LGA due to age restrictions and for students that need a full time alternative. These would all be offered in a flexible structure to address these needs as they arise and not be tied to semester restrictions. Students could remain at their home school for dual enrollment as well.

Currently, the available opportunities for students to access programs for credit recovery, course completion, and full-time alternative does not meet the current need. The Educational Options continuation schools, Cesar Chavez and Lorin Griset Academy have quarterly enrolment opportunities for students to leave their school of residence and enroll in the quarter system structure that provides opportunity for credit recovery. Each quarter during these enrollment opportunities the available spots are far fewer than the need of comprehensive schools have. We currently have over 1,000 students that are 30 credits or more deficient in our area schools. As a result, each quarter students that are in need of course recovery are passed over and in many cases their credit recovery need increases until they are a prioritized student referred for enrollment when a spot is available. But this can often be too late. Also, per Ed Code students cannot enroll in Lorin Griset Academy or Cesar Chavez until they are 16. At REACH we can enroll earlier than 16 and be able to address this issue of credit deficiency as early as Freshmen year. In order to have this opportunity we need to have nighttime offerings that we can help.

To address the credit deficient challenges that we are experiencing in the district, REACH Academy would open a night school with the idea that students could take up to four classes at night to make up credits or be additional classes as well. Students would take classes in the traditional model of the quarter system as well as APEX online courses as well.

REACH Academy Night program would run Monday through Friday from 3:30pm to 8:00pm. This would give enough time for all CDS students to leave campus and for the night time students to come to campus and not have any issues or conflicts during this transition.

Our campus is a total of 11 classrooms, so things are very small and supervision is constant in between passing periods and lunch time as well. Safety is one of our prime concerns and focal points. During lunch time we have a total of 7-9 adults, (certificated, classified, District Security Officer and School Police) out during lunch time.

Another focal point in our in our campus is all of the mental health support that we give our students. We continue to serve with our wrap around services (Principal, Psychologist, DIS Counselor, Mental Health Therapist, Gang Interventionist-Project Kinship, Outreach consultants, Resource Specialist, Paraeducators, Heart Program) to fully support our students and will continue these support systems with any students that we receive in the evening as well.

Student Population: 75-100 students on campus at night with our population fluctuating throughout the year for students coming from various agencies to and from the district.

Student Population: 60

City Type: Urban

Public Hearing Date: 1/14/2020

Public Hearing Advertised: Various postings on the district website with agenda posted for the public to be notified about the proposal

Local Board Approval Date: 1/10/2020

Community Council Reviewed By: School Site Council

Community Council Reviewed Date: 11/12/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Chad Greendale

Position: Principal

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