

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education May 2020 Agenda Item #W-06

## Subject

Request by **Moreland School District** 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

* 27-1-2020

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Moreland School District requests to increase the caseload of one resource specialist 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.

### Moreland School District (MSD)

The MSD requests to increase the caseload of Chelsea Burnham, resource specialist at George C. Payne 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 MSD applied for a waiver within the previous two years. The resource specialist agreed to the waiver, and is receiving more than the required amount of instructional aide time. In addition, the MSD will make a substitute teacher available for Ms. Burnham to be able to attend IEP team meetings and work on caseload responsibilities.

**Demographic Information:** The MSD has a student population of 4,703 and is located in a suburban area in Santa Clara 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.

## Fiscal Analysis (as appropriate)

There is no statewide fiscal impact of waiver(s) approval.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Moreland School District Waiver Request 27-1-2020 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Resource Specialist Caseload Waiver Request, Administrator Supplemental Form (Waiver 27-1-2020) (3 pages).
* **Attachment 4:** Resource Specialist Caseload Waiver Request, Teacher Supplemental Form (Waiver 27-1-2020) (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 |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 27-1-2020 | Moreland School District, George C. Payne Elementary School | Chelsea Burnham  **Yes** | No | **Previous:** 5.5 hours per day (27.5 hours weekly)  **Current:** 6.1 hours per day (30.5 hours weekly) | **Requested**  January 29, 2020 to June 12, 2020  **Recommended**  January 29, 2020 to June 12, 2020 | January 27, 2020 | Moreland Teachers Association, Wendy Johnson,  President 1/27/2020 Neutral |

Created by California Department of Education: February 2020

# Attachment 2: Waiver 27-1-2020 Moreland School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 4369575

Waiver Number: 27-1-2020

Active Year: 2020

Date In: 1/29/2020 1:07:32 PM

Local Education Agency: Moreland

Address: 4711 Campbell Ave.

San Jose, CA 95130

Start: 1/29/2020

End: 6/12/2020

Waiver Renewal: No

Previous Waiver Number:

Previous SBE Approval Date:

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: *Education Code* 56362(c): "No resource specialist shall have a caseload which exceeds [28] pupils."

Outcome Rationale: This year our resource needs have increased at Payne School. We are not able to hire a qualified applicant with the appropriate credential. At the beginning of this school year, we were able to add a part-time resource specialist in addition to the full-time resource specialist at Payne, but the part-time specialist is unable to provide full-time support at Payne. Therefore, our full-time resource specialist has agreed to increase her caseload to 32 through the waiver process.

Student Population: 584

City Type: Suburban

Local Board Approval Date: 1/27/2020

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Dr. Theresa Molinelli

Position: Director

E-mail: [tmolinelli@moreland.org](file:///\\CDE.Cal\DATA\SEDATA\CENTRAL\Director's%20Office\State%20Board%20of%20Education\Waivers\Current%20Waiver%20Templates\tmolinelli@moreland.org)

Telephone: 408-874-2952

Fax: 408-374-8367

Bargaining Unit Date: 01/27/2020

Name: Moreland Teachers Association

Representative: Wendy Johnson

Title: MTA President

Phone: 408-874-3645

Position: Neutral

Comments: