

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education May 2020 Agenda Item #W-10

## Subject

Request from Liberty Elementary (LE) under the authority of *EC* Section 49548 to waive *EC* Section 49550, the State Meal Mandate for public schools, during the summer school session.

## Waiver Number

* Liberty Elementary 22-2-2020

## Type of Action

Action, Consent

## Summary of the Issue(s)

*EC* Section 49550, requires that public school districts and county offices of education provide one nutritionally adequate meal to needy students every school day. *EC* Section 49548 requires that the State Board of Education grant requests for waivers to *EC* Section 49550 during summer school sessions if the requestor meets one of the three conditions outlined in the Summary of Key Issues.

The district has requested summer school meal waivers based upon meeting one of the three conditions (see Attachment 1 for more details).

## Authority for Waiver

*EC* Section 49548

## Recommendation

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

## Summary of Key Issues

Under *EC* Section 49548, school sites operating a summer school session shall be granted a waiver to *EC* Section 49550, if one of the following conditions is met:

### Condition One

Elementary schools shall be granted a waiver if a Summer Food Service Program (SFSP) for children site is available within one-half mile of the school site. Middle schools, junior high schools, and high schools shall be granted a waiver if an SFSP site is available within one mile of the school site. Additionally, one of the following conditions must exist:

* The hours of operation of the SFSP site commence no later than one-half hour after the completion of the summer school session day.
* The hours of operation of the SFSP site conclude no earlier than one hour after the completion of the summer school session day.

For purposes of this section of law, **elementary school** means a public school that maintains kindergarten or any of grades first through eighth inclusive.

### Condition Two

Serving meals during the summer school session would result in a financial loss to the school district, documented in a financial analysis performed by the school district, in an amount equal to one-third of the net cash resources (NCR) in the nonprofit food service account as defined in Title 7, *Code of Federal Regulations*, Section 210.2, which, for purposes of this section of law, shall exclude funds that are encumbered. If there are no NCR, the financial loss must be greater than or equal to the food service operating costs of one month as averaged over the summer school sessions.

The financial analysis must include a projection of future meal program participation under one of the following scenarios:

* The meal service begins after the commencement of the summer school session day and concludes before the completion of the summer school session day. Districts must project profit or loss based on serving a breakfast or a lunch **during school hours** and not before or after the school day.
* The school site operates as an open Summer Seamless Option or SFSP site, and providing adequate notification thereof, including flyers and banners, in order to fulfill community needs under the SFSP.

### Condition Three

Summer school sites that operate two hours or less including breaks and recess shall be granted a waiver.

### Summary/Recommendation

The public school listed in Attachment 1 has requested a waiver of *EC* Section 49550 for the summer of 2020 and certified their compliance with all required conditions necessary to obtain a waiver.

The CDE has reviewed the waiver request from the charter school and recommends approval.

LE shall promote local feeding sites by directing students to the California Meals Application.

**Demographic Information:** LE has a student population of 207 and is located in Petaluma, in a suburban area of Sonoma County. Summer school enrollment for 2019 was 28 and the anticipated summer school enrollment for 2020 is 40. The percentage of free and reduced-price eligible students is 14.9.

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

In the past five years, the number of similar waiver requests approved by the SBE annually has dropped from six to two. The most recent approval was at the May 2019 SBE meeting for Item W-14 (<https://www.cde.ca.gov/be/ag/ag/yr19/agenda201905.asp>)

for two requesting districts in this item.

## Fiscal Analysis (as appropriate)

Approval of the waivers may reduce the draw on Proposition 98 funds at the state level.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** LE Specific Waiver Request 22-2-2020 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* Section 49548

| Waiver Number | District | Period of Request | District’s Request | CDE Recommended | Local Board and Public Hearing Approval | Penalty Without Waiver | Previous Waivers |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 22-2-2020 | Liberty Elementary | **Requested:**  July 7, 2020, to July 24, 2020  **Recommended:** June 15, 2020, to August 27, 2020 | Waive the requirement that meals be provided to needy students during summer school under Condition Two. | Waive the requirement that meals be provided to needy students during summer school under Condition Two. | 2/20/2020 | None | 8-2-2018 |

Created by California Department of Education   
March 2020

# Attachment 2: Waiver 22-2-2020 Liberty Elementary

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 4970797

Waiver Number: 22-2-2020

Active Year: 2020

Date In: 2/27/2020 12:07:35 PM

Local Education Agency: Liberty Elementary

Address: 170 Liberty School Rd.

Petaluma, CA 94952

Start: 7/7/2020

End: 7/24/2020

Waiver Renewal: Yes

Previous Waiver Number: 31-2-2016-W-14

Previous SBE Approval Date: 5/12/2016

Waiver Topic: State Meal Mandate

Ed Code Title: Summer School Session

Ed Code Section: 49550

Ed Code Authority: 49548

Ed Code or *CCR* to Waive: Notwithstanding any other provision of law, each school district or county superintendent of schools maintaining any kindergarten or any of grades 1 to 12, inclusive, shall provide for each needy pupil one nutritionally adequate free or reduced-price meal during each school day.

Outcome Rationale: Our LEA would like to receive a waiver of the requirement to serve meals to our students at this year's summer school session for one school site. We understand that we must meet one of three conditions of Ed Code 49548(a) and qualify for Condition Two. Condition Two: Serving meals during the summer school session would result in a financial loss.

Student Population: 207

City Type: Suburban

Local Board Approval Date: 2/20/2020

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Lupita Ramirez

Position: Business Services Manager

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