

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education September 2020 Agenda Item #W-05

## Subject

Request by **three local educational agencies** to waive California *Education Code* sections 15102, 15106, and 15268to allow the districts to exceed their bonded indebtedness limits. Total bonded indebtedness may not exceed 1.25 percent of the taxable assessed valuation of property for elementary school districts or 2.50 percent of the taxable assessed valuation of property for unified school districts. Depending on the type of bond, a tax rate levy limit of $30 per $100,000 of assessed value for elementary school districts or $60 per $100,000 of assessed value for unified school districts may also apply.

## Waiver Numbers

* Burlingame Elementary School District: 11-6-2020
* Palmdale Elementary School District: 16-6-2020
* Parlier Unified School District: 7-6-2020

## Type of Action

Action, Consent

## Summary of the Issues

The Burlingame Elementary School District’s (Burlingame ESD) bonded indebtedness is statutorily limited not to exceed 1.25 percent, which prohibits the district from proceeding with its proposed issuance of $97 million from Measure O, which was approved by voters in March 2020. The district is requesting that the State Board of Education (SBE) authorize the district to exceed its statutory bonding capacity limit to a rate up to, but not to exceed, 1.86 percent.

The Palmdale Elementary School District’s (Palmdale ESD) bonded indebtedness is statutorily limited not to exceed 1.25 percent, which prohibits the district from proceeding with its proposed issuance of $32.87 million from Measure DD, which was approved by voters in November 2012, and the remaining $20.50 million from Measure PSD, which was approved by voters in November 2016, for a cumulative total issuance of $53.37 million. The district is requesting that the SBE authorize the district to exceed its statutory bonding capacity limit to a rate up to, but not to exceed, 1.76 percent.

The Parlier Unified School District’s (Parlier USD) bonded indebtedness is statutorily limited not to exceed 2.50 percent, which prohibits the district from proceeding with its proposed issuance of $11 million from Measure D, which was approved by voters in March 2020. The district is requesting that the SBE authorize the district to exceed its statutory bonding capacity limit to a rate up to, but not to exceed, 4.16 percent.

## Authority for Waiver

California *Education Code (EC)* Section 33050

## Recommendation

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

The California Department of Education (CDE) recommends that the bonded indebtedness limit be waived for each of the districts with the following conditions:  
(1) the periods of request do not exceed the recommended period on Attachment 1; (2) the total bonded indebtedness does not exceed the recommended new maximum shown on Attachment 1; (3) the districts do not exceed the statutory tax rate; (4) the waivers are limited to the sale of bonds approved by the voters on the measures noted on Attachment 1; and (5) the districts comply with the statutory requirements of Assembly Bill 182 related to school bonds, which became effective on January 1, 2014.

## Summary of Key Issues

The California *EC* provides limits related to a district’s total bonded indebtedness. *EC* sections 15102 and 15268 limit an elementary school district’s total general obligation (G.O.) bond indebtedness to 1.25 percent, and *EC* sections 15106 and 15270(a) limit a unified school district’s total G.O. bond indebtedness to 2.50 percent.

To raise funds to build or renovate school facilities, with voter authorization, school districts may issue G.O. bonds. Under Proposition 46, school districts are allowed to increase the property tax rate above one percent for the period necessary to pay off new G.O. bonds if the following conditions are met:

* Two-thirds of those voting in a local election have approved the issuance of the bonds.
* The money raised through the sale of the bonds is exclusively used to purchase or improve land and buildings.

In November 2000, districts were given another option for authorizing and issuing bonds when California voters passed Proposition 39, which allows school bonds to be approved with a 55 percent majority vote if the district abides by several administrative requirements, such as establishing an independent Citizens’ Oversight Committee to oversee the use of the funds. Once G.O. bonds are authorized, school districts issue the bonds in increments as needed to fund their facility projects. When the voters authorize a local G.O. bond, they are simultaneously authorizing a property tax increase to pay the principal and interest on the bond. For Proposition 39 bonds, *EC* Section 15268 limits the tax rate levy authorized in each election to $30 per $100,000 of taxable property for elementary school districts, and *EC* Section 15270(a) limits the tax rate levy authorized in each election to $60 per $100,000 of taxable property for unified school districts.

Without a waiver, school districts that are close to their bonding capacity must decide either to issue fewer bonds, delay the issuance of bonds until their assessed valuation increases, or obtain other more expensive non-bond financing to complete their projects, the costs of which could be paid from district general funds. Therefore, the CDE has historically recommended that the SBE approve related waiver requests with the condition that the statutory tax levies are not exceeded at the time the bonds are issued.

AB 182 (Chapter 477, Statutes of 2013) has established parameters for the issuance of local education bonds that allow for the compounding of interest, including capital appreciation bonds (CABs). AB 182 requires a district governing board to do the following:

* Before the bond sale, adopt a resolution at a public meeting that includes specific criteria, including being publicly noticed on at least two consecutive meeting agendas.
* Be presented with an agenda item at a public board meeting that provides a financial analysis of the overall costs of the bonds, a comparison to current interest bonds, and reasons why the compounding interest bonds are being recommended.
* After the bond sale, present actual cost information at the next scheduled public meeting and submit the cost information of the sale to the California Debt and Investment Advisory Commission.

### Burlingame ESD

Burlingame ESD wishes to proceed with its proposed issuance for $97 million from Measure O, which was approved by voters in March 2020. The issuance will be used to modernize outdated classrooms, restrooms, and facilities to support 21st-century learning; fix damaged and leaky roofs; improve student safety; and upgrade inadequate electrical systems. The issuance of $97 million will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 1.86 percent.

### Palmdale ESD

Palmdale ESD had wished to proceed with its proposed issuance of $172.91 million, including the remaining $20.50 million from Measure PSD, which was approved by voters in November 2016, and $152.41 million from Measure DD, which was approved by voters in November 2012. The issuance is intended to be used to update classrooms, labs, and learning technology for the 21st century; repair leaky roofs and windows; improve school safety, security, energy and water efficiency; accommodate growing enrollment; and repair, construct, and acquire equipment for classrooms, sites, and facilities. The proposed cumulative issuance of $172.91 million would have increased the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 2.00 percent.

However, CDE’s internal calculations could not substantiate the originally requested rate of 2.00 percent based upon the submitted data. As a result, the district has revised its request and supporting data to align with its proposed issuance schedule, with the initial issuance now being the remaining $20.50 million from Measure PSD and $32.87 million from Measure DD. This proposed cumulative issuance of $53.37 million has resulted in the district requesting a new rate of 1.76 percent, and the change to this lower percentage has also resulted in a request for a shorter duration for the waiver, from 2030 to 2026.

### Parlier USD

Parlier USD wishes to proceed with its proposed issuance of $11 million from Measure D, which was approved by voters in March 2020. The issuance will be used to improve the quality of local schools; modernize/renovate outdated classrooms; and construct new facilities to reduce student overcrowding. The issuance of $11 million will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 4.16 percent.

The district had a previous waiver request (#15-4-2019) approved in July 2019 for an issuance of $9 million from the 2018 Measure H bond. The SBE’s approval of that waiver request allowed the district to increase its outstanding bonded indebtedness limit to a rate of 2.96%. The approval of this waiver request would incorporate the authorization of the previous waiver and further increase the rate to 4.16% in order to include additional issuance from the 2020 Measure D bond.

### Demographic Information

Burlingame ESD has a student population of 3,530 and is located in San Mateo County.

Palmdale ESD has a student population of 22,166 and is located in Los Angeles County.

Parlier USD has a student population of 3,484 and is located in Fresno County.

**Because these are general waivers, if the SBE decides to deny the waivers, it must cite one of the seven reasons in *EC* Section 33051(a), available on the California Legislation Information Web page at** <https://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 all bond limit waiver requests limited to the sale of already authorized bonds and at the tax rate levy stated on the bond measure.

## Fiscal Analysis

Approval of the waivers would allow the districts to accelerate their issuance of voter-approved bonds.

## Attachments

* **Attachment 1:** Summary Table (3 pages)
* **Attachment 2:** Burlingame ESD General Waiver Request 11-6-2020 (3 pages). (Original waiver request is signed and on file in the Waiver Office)
* **Attachment 3:** Palmdale ESD General Waiver Request 16-6-2020 (3 pages). (Original waiver request is signed and on file in the Waiver Office)
* **Attachment 4:** Parlier USD General Waiver Request 7-6-2020 (2 pages). (Original waiver request is signed and on file in the Waiver Office)

# Attachment 1: Summary Table

California *Education Code* (*EC*) Section 15102 et seq.

| **Waiver Number** | **District** | **Period of Request** | **District’s Request** | **CDE Recommended** | **Bargaining Unit Representatives** | **Local Board, Public Hearing, and Advisory Committee Approval** |
| --- | --- | --- | --- | --- | --- | --- |
| 11-6-2020 | Burlingame Elementary School District | **Requested:** September 1, 2020 to December 31, 2028  **Recommended:** September 11, 2020 to December 31, 2028 | **Requested:** Debt Limit: 1.86%  **Recommended:** Debt Limit: 1.86% | Debt Limit 1.86%  Limited to sale of bonds applicable to Measure O, approved by voters in March 2020.  Tax Rate $30 per $100,000 (authorization approved under Proposition 39) | Burlingame Education Association Brian McManus, President 5/28/2020 **Support**  California School Employees Association Gail Pape, President 5/28/2020 **Support** | Local Board Approval Date: 6/9/2020  Public Hearing Date: 6/9/2020  Public Hearing Advertised: Newspaper (The Examiner Boutique and Villager) and posted at school sites  Citizen's Bond Oversight Committee 5/6/2020 **No Objections** |
| 16-6-2020 | Palmdale Elementary School District | **Requested:** September 15, 2020 to September 15, 2030  **Recommended:** September 15, 2020 to September 15, 2026 | **Requested:** Debt Limit: 2.00%  **Recommended:** Debt Limit: 1.76% | Debt Limit: 1.76%  Limited to sale of bonds applicable to Measures DD and PSD, approved by voters in November 2012 and November 2016, respectively.  Tax Rate $30 per $100,000 (authorization approved under Proposition 39) | Palmdale Elementary Teachers Association Jacqualynne Hearne, President 4/22/2020 **Support** | Local Board Approval Date: 5/5/2020  Public Hearing Date: 5/5/2020  Public Hearing Advertised: Published in Antelope Valley Press and posted at District Office  Palmdale School District Facilities Steering Bond Committee 5/18/2020 **No Objections** |
| 7-6-2020 | Parlier Unified School District | **Requested:** September 12, 2020 to August 1, 2037  **Recommended:** September 12, 2020 to August 1, 2037 | **Requested:** Debt Limit: 4.16%  **Recommended:** Debt Limit: 4.16% | Debt Limit: 4.16%  Limited to sale of bonds applicable to Measure D, approved by voters in March 2020.  Tax Rate $60 per $100,000 (authorization approved under Proposition 39) | California School Employees Association Nicole Prieto, Public Relations Officer 6/4/2020 **Support**  Parlier Faculty Association Jose Reyes, President 6/4/2020 **Support** | Local Board Approval Date: 6/9/2020  Public Hearing Date: 6/9/2020  Public Hearing Advertised: The district posted a notice of public hearing at the district office, and at least one school site and on the district web site.  Bond Oversight Committee 7/9/2020 **No Objections** |

Created by the California Department of Education

July 2020

## Attachment 2: **Burlingame Elementary School District General** **Waiver Request 11-6-2020**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 4168882

Waiver Number: 11-6-2020

Active Year: 2020

Date In: 6/18/2020 2:17:21 PM

Local Education Agency: Burlingame Elementary School District

District Address 1825 Trousdale Dr.

Burlingame, CA 94010

Start: 9/1/2020

End: 12/31/2028

Waiver Renewal: No

Waiver Topic: School Construction Bonds

*Ed Code* Title: Bond Indebtedness Limit - Non-Unified

*Ed Code* Section: 15102 and 15268

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive: 15102. The total amount of bonds issued pursuant to this chapter and Chapter 1.5 (commencing with Section 15264) shall not exceed [1.25] percent of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located. For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987–88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987–88 fiscal year, and multiplying that result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

15268. The total amount of bonds issued, including bonds issued pursuant to Chapter 1 (commencing with Section 15100), shall not exceed [1.25] percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located. The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred by a school district pursuant to this chapter, at a single election, would not exceed thirty dollars ($30) per year per one hundred thousand dollars ($100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with Article XIII?A of the California Constitution. For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987–88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987–88 fiscal year, and multiplying that result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

Outcome Rationale: Burlingame School District schools provide students with an innovative and challenging learning environment, thanks to great teachers and high-quality academic programs. Students leave Burlingame School District with the skills needed to succeed in high school, college and competitive 21st-century careers.

Though student achievement continues to rise, our facilities and schools have not kept up. Many of our schools are over 50 years old and some are more than 100 years old. Some classrooms contain dry rot, roofs at many schools leak, and plumbing and electrical systems are outdated. Phase I improvements have been completed but further repairs are needed to ensure a safe and modern learning environment for all students.

To make additional repairs and upgrades to schools and classrooms, the Burlingame School District Board of Trustees voted unanimously to place Measure O, a $97 million local school repair bond measure, on the March 3, 2020 ballot. District voters passed Measure O with 57.67% support.

In order to issue bonds from the 2020 Measure O bond program, the District is requesting a bonding capacity waiver to issue bonds up to 1.86% of the total taxable property of the District. Current projections show that the District will be back within the current statutory bonding capacity requirement of 1.25% by December 2028.

Student Population: 3,530

City Type: Urban

Public Hearing Date: 6/9/2020

Public Hearing Advertised: Newspaper (The Examiner Boutique and Villager) and posting at school sites

Local Board Approval Date: 6/9/2020

Community Council Reviewed By: Citizen's Bond Oversight Committee

Community Council Reviewed Date: 5/6/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Gaby Hellier

Position: Assistant Superintendent/CBO

E-mail: [ghellier@burlingameschools.org](file:///C:\Users\ANave\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\SVZW1V41\ghellier@burlingameschools.org)

Telephone: 650-259-3812

Fax: 650-259-3820

Bargaining Unit Date: 5/28/2020

Name: Burlingame Education Association

Representative: Brian McManus

Title: President

Phone: 650-259-3890

Position: Support

Bargaining Unit Date: 5/28/2020

Name: California School Employees Association

Representative: Gail Pape

Title: President

Phone: 650-259-3860

Position: Support

# Attachment 3: **Palmdale Elementary School District General Waiver Request 16-6-2020**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 1964857

Waiver Number: 16-6-2020

Active Year: 2020

Date In: 6/29/2020 8:41:02 AM

Local Education Agency: Palmdale Elementary

Address: 39139 10th St. East

Palmdale, CA 93550

Start: 9/15/2020

End: 9/15/2030

Waiver Renewal: No

Waiver Topic: School Construction Bonds

*Ed Code* Title: Bond Indebtedness Limit - Non-Unified after 2000

*Ed Code* Section: Sections 15102 and 15268

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive: 15102. The total amount of bonds issued pursuant to this chapter and Chapter 1.5 (commencing with Section 15264) shall not exceed [1.25] percent of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties where the district is located.

15268. The total amount of bonds issued, including bonds issued pursuant to Chapter 1 (commencing with Section 15100), shall not exceed [1.25] percent of the taxable property of the district as shown by last equalized assessment of the county or counties where the district is located.

Outcome Rationale: The District requests that its Outstanding Bonded Indebtedness limit be increased to an amount not to exceed 2.00% until September 15, 2030 in order to allow it to access the general obligation bonds authorized by District voters in two separate elections. On November 6, 2012, District voters approved Measure DD, providing the District with $220,000,000 of general obligation bond authorization; the District has $152,410,000 of unsold bonds from this election. On November 8, 2016, District voters approved Measure PSD, providing the District with $80,000,000 of general obligation bond authorization; the District has $20,500,000 of unsold bonds from this election.

In aggregate, the District has unsold bond authorization of $172.91 million but can only access less than $1 million of that total without the requested waiver. However, facilities needs of approximately $743 million have only been funded at a level of 13.7% ($102 million), leaving a significant amount of unfunded projects.

The District wishes to procure the waiver in order to continue access to the remaining bond authorization in order to (a) purchase a school site critical to its facilities plans, for which negotiations are already well underway, and (b) implement the much-needed improvements to its school facilities that will provide a safer and better educational environment for District students. Without the waiver, the District effectively has no access to bonds at this time, and cannot affect the proposed purchase of the identified school site. Moreover, it would be reliant on small and inefficient incremental bond sales in the future as it awaits increases in its assessed valuation. This would certainly not allow the District to access the bond authorization approved by the voters within a reasonable timeframe, and would expose the District to potentially higher interest rates and costs of issuance, as well significant escalation in constructions costs, thereby severely diminishing the District’s purchasing power. Ultimately, this would mean a significant curtailing of the scope of projects the District can pursue, and the delivering much less in facilities for the dollars spent.

Approval of this request would allow the District to make progress in its goal of meeting the needs of its students and delivering to District constituents the facility improvements promised by Measures DD and PSD.

Student Population: 22,166

City Type: Suburban

Public Hearing Date: 5/5/2020

Public Hearing Advertised: Published in Antelope Valley Press & posted at District Office

Local Board Approval Date: 5/5/2020

Community Council Reviewed By: Palmdale School District Facilities Steering Bond Committee

Community Council Reviewed Date: 5/18/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Raul Maldonado

Position: Superintendent

E-mail: [rmaldonado@palmdalesd.org](file:///C:\Users\ANave\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\SVZW1V41\rmaldonado@palmdalesd.org)

Telephone: 310-774-7071

Bargaining Unit Date: 04/22/2020

Name: Palmdale Elementary Teachers Association (PETA)

Representative: Jacqualynne Hearne

Title: President

Phone: 661-947-7191

Position: Support

# Attachment 4: **Parlier Unified School District General Waiver Request 7-6-2020**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 1062364

Waiver Number: 7-6-2020

Active Year: 2020

Date In: 6/12/2020 4:58:30 PM

Local Education Agency: Parlier Unified

Address: 900 Newmark Ave.

Parlier, CA 93648

Start: 9/12/2020

End: 8/1/2034

Waiver Renewal: No

Waiver Topic: School Construction Bonds

*Ed Code* Title: Bond Indebtedness Limit - Unified S.D.

*Ed Code* Section: 15106

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive: *EC* 15106: A unified school district or community college district may issue bonds that, in aggregation with bonds issued pursuant to Section 15270, shall not exceed [2.5 percent] of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.

Outcome Rationale: On July 12, 2019, Parlier Unified School District (the “District”) received notice from the State Board of Education that the District’s waiver request to allow the District to exceed its bond indebtedness limit up to an amount not to exceed 2.96% of the taxable assessed valuation of property in the District was granted. The request was made so that the District could issue multiple series of general obligation bonds under their $9 million Election of 2018 GO Bond Authorization (“2018 Authorization”).

On March 3, 2020, Parlier Unified School District’s voters approved an $11 million GO Bond Authorization (“2020 Authorization”). The District currently has $1,213 of net debt capacity, which is not sufficient to issue bonds from their 2020 Authorization. The District expects each series of bonds from the 2020 Authorization to be repaid over a 30-year repayment term using only current interest bonds. The District does not expect to issue bonds that would cause the tax rate to increase above the legal requirement of $60 per $100,000 of assessed valuation. The increase in bonding capacity from 2.96% to 4.16% and the issuances described would allow the District to move ahead with its voter-supported facility improvements without delay.

Student Population: 3,484

City Type: Small

Public Hearing Date: 6/9/2020

Public Hearing Advertised: The District posted a notice of public hearing at the District Office, at least one school site and on the District website.

Local Board Approval Date: 6/9/2020

Community Council Reviewed By: Kathleen Reyes, Chairperson for Bond Oversight Committee, was supportive/in favor

Community Council Reviewed Date: 6/4/2020 **(full committee review happened on 7/9/20)**

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Rene Rodriguez

Position: Director Classified Projects

E-mail: [rrodriguez2@parlierunified.org](file:///C:\Users\ANave\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\SVZW1V41\rrodriguez2@parlierunified.org)

Telephone: 559-646-2731 x1008

Bargaining Unit Date: 6/4/2020

Name: California School Employees Association

Representative: Nicole Prieto

Title: Public Relations Officer

E-mail: [rkathleen412@gmail.com](file:///C:\Users\ANave\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\SVZW1V41\rkathleen412@gmail.com)

Position: Support

Bargaining Unit Date: 6/4/2020

Name: Parlier Faculty Association

Representative: Jose Reyes

Title: President

E-mail: [jreyes3@parlierunified.org](file:///C:\Users\ANave\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\SVZW1V41\jreyes3@parlierunified.org)

Position: Support