

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of Education September 2020 Agenda Item #W-08

## Subject

Request by the **Lindsay Unified School District** to waive portions of California *Education Code* (*EC*) Section 48661(a), relating to the collocation of a community day school with other types of schools.

## Waiver Number

* Lindsay Unified School District 20-2-2020

## Type of Action

Action, Consent

## Summary of the Issue(s)

Request by the **Lindsay Unified School District (LUSD)** for a waiver of portions of California *EC* Section 48660 to permit Lindsay Community Day School (Lindsay CDS) to continue to be collocated on the same site as the John J. Cairns Continuation High School.

## 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 Lindsay CDS students shall be educated fully separately from the John J. Cairns Continuation High School students.
* In accordance with *EC* Section 48661(b), the LUSD 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.

## 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 48661(a) states that a CDS shall not be situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation 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.

*EC* Section 48660 provides that the governing board of a school district may establish one or more CDS. *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.

The Lindsay CDS has been operating on the same site as the John J. Cairns Continuation High School since receiving a State Board of Education (SBE) waiver approved in 2012. The LUSD received a waiver (13-10-12) in January 2013 when the schools moved to that location. Waiver 13-10-12 was approved for a term of August 1, 2012, through June 30, 2013, and lapsed without being renewed due to oversite on the part of the district. The LUSD is now requesting a new waiver to continue to collocate the two schools at this same location, rather than a renewal as incorrectly marked on their waiver request.

The Lindsay USD has confirmed that the following safety measures are in place:

* The two schools are separated by a fence.
* The CDS classroom has a student restroom in it, so restrooms are not shared by the schools.
* The start time, break time, lunch time and dismissal times are different for the two schools.
* There are campus monitors to ensure that students of the two schools do not interact.

According to the LUSD, from 2012 through the present, there have been no negative incidents between students of the two schools.

The LUSD requests that the period for this waiver begin with the date when the LUSD became aware of the lapse in December 2019, and continue through the end of the 2020-21 school year. The LUSD, with an enrollment of 4,052 students, is requesting this waiver to authorize it to act similar to a smaller school district per *EC* Section 48661. The LUSD local board has certified that there continues to be no alternate site/property in the district for the CDS or the continuation high school to operate at a fully separate location.

The LUSD local board voted unanimously for their waiver request. The Lindsay Teachers Association supports the waiver through its representative for alternative education, Candie Forrester. The California School Employees Association supports the waiver through its representative for alternative education, Erik Gonzales. The School Site Council, site staff for John J. Cairns Continuation School, and staff for Lindsay CDS had no objections.

**Demographic Information:**

The LUSD has a student population of 4,052 students and is located in a rural setting in Tulare County.

**Because this is a general waiver, if the 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 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 approval.

## Attachment(s)

* **Attachment 1:** Summary Table of Community Day School State Board of Education Waiver (1 page)
* **Attachment 2:** Lindsay Unified School District General Waiver Request   
  20-2-2020 (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

Portions of California *Education Code* 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 |
| --- | --- | --- | --- | --- | --- |
| 20-2-2020 | Lindsay Unified School District  4,052 Students  13 Students in Lindsay Community Day School  February 24, 2020 | **Requested:**  December 19, 2019,  through  June 30, 2021  **Recommended:**  December 19, 2019,  through  June 30, 2021 | No | Lindsay Teachers Association  Candie Forrester,  Alternative Education Representative  November 8, 2019  **Support**  California School Employees Association  Erik Gonzales  Alternative Education Representative  November 8, 2019  **Support** | School Site Council, site staff for John J. Cairns Continuation High School and staff for Lindsay Community Day School  November 7, 2019  **No Objections** |

Created by California Department of Education August 27, 2020

# Attachment 2: Lindsay Unified School District General Waiver Request 20-2-2020

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 5471993

Waiver Number: 20-2-2020

Active Year: 2020

Date In: 2/25/2020 10:41:35 AM

Local Education Agency: Lindsay Unified

Address: 371 East Hermosa St.

Lindsay, CA 93247

Start: 12/19/2019

End: 6/30/2021

Waiver Renewal: Yes

Previous Waiver Number: 13-10-2012

Previous SBE Approval Date: 10/13/2012

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: (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.

(2) When the governing board of a school district that is organized as a district to serve kindergarten and grades 1 to 8, inclusive, but no higher grades, certifies by a two-thirds vote of its membership that satisfactory alternative facilities are not available for a community day school.

(3) When the governing board of a school district that desires to operate a community day school to serve any of kindergarten and grades 1 to 6, inclusive, but no higher grades, 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: - Based on the fact that there is no other site/property in the District for this school to co-exist with.

- The 2 schools are separated by a fence. The Community Day School classroom has a learner restroom in it, so restrooms are not shared by the 2 sites.

- The start time, break time, lunch time and dismissal times are different for the 2 different schools.

- Having the Community Day School on the Continuation site is a better fit than having it on the Comprehensive site.

- The 2 schools have been operating on the same site (at a different location) for several years and it has been very successful. There has been no issues.

- The goal of the 2 schools is to work together to ensure a positive school experience. Both schools receive curriculum that is aligned with the comprehensive site. To ensure that all learners get caught up with their credits and work towards earning a high school diploma. The 2 schools work together to make sure all the necessary strategies and interventions are in place for that to happen.

Student Population: 4052

City Type: Rural

Public Hearing Date: 2/24/2020

Public Hearing Advertised: Notice posted at each school and three other public places

Local Board Approval Date: 2/24/2020

Community Council Reviewed By: School Site Council, site staff for John J. Cairns Continuation and staff for Lindsay Community Day

Community Council Reviewed Date: 11/7/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Grant Schimelpfening

Position: Chief Business Official

E-mail: [gschimelpfening@lindsay.k12.ca.us](mailto:gschimelpfening@lindsay.k12.ca.us)

Telephone: 559-562-5111 x5113

Bargaining Unit Date: 11/08/2019  
Name: California School Employees Association (CSEA)  
Representative: Erik Gonzales  
Title: Alt Ed CSEA Representative  
Phone: (559) 562-5913  
Position: Support  
Comments:

Bargaining Unit Date: 11/08/2019  
Name: Lindsay Teachers Association (LTA)  
Representative: Candie Forrester  
Title: Alt Ed LTA Representative  
Phone: (559) 562-5913  
Position: Support  
Comments