

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of Education March 2021 Agenda Item #W-07

## Subject

Request by the **Manteca Unified School District** to waive California *Education Code* Section 48661(a) to permit the collocation of the Manteca Community Day School, on the same site as the New Vision Continuation High School.

## Waiver Number

* Manteca Unified School District 1-12-2020

## Type of Action

Action, Consent

## Summary of the Issue(s)

Request by the Manteca Unified School District (MUSD) for a waiver of portions of California *Education Code* (*EC*) Section 48661(a) to permit the collocation of the Manteca Community Day School (CDS), serving students in grades seven through twelve, on the same site as the New Vision 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 Manteca CDS students shall be educated fully separately from the New Vision Continuation High School students.
* In accordance with *EC* Section 48661(b), the MUSD 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.

The MUSD, with an enrollment of 25,000 students, is requesting this waiver to authorize it to act similarly to a smaller school district per *EC* Section 48661.

The Yosemite campus, which previously housed the Manteca CDS, was first constructed in 1948. The main building has not been modernized in its 72-year life. While it is still sufficiently safe for limited temporary use, such as its current use to house teachers for an online program without students present, it is not considered up to standard for the continuing use for the Manteca CDS on a permanent basis.

The following is a partial listing of the needed major upgrades itemized for the Yosemite campus: heating, ventilation and air conditioning replacement, electrical upgrade, flooring replacement including abatement, dry-rot repairs, roofing replacement, data cabling and network infrastructure upgrade, restroom modernization to comply with the American Disabilities Act (ADA), other ADA compliance improvements and other alterations, asphalt renovation and replacement, and irrigation repairs and field maintenance improvements.

The MUSD looked for possible options to relocate the Manteca CDS and found one that met standards. The campus where the New Vision Continuation High School is located has vacant classrooms on one side of the school which could be used fully separately and are fenced off from the main campus. The access points for the two schools are located on different streets. The two schools are separated by a fence. Each school has its own office and ADA compliant restrooms. The start time, break time, lunch time, and dismissal times are different for the two schools. Separate campus monitors are present for each school site to ensure that students from the two schools do not intermingle.

The MUSD believes that the change of physical sites will result in a significant change in the influence on the overall school climate, from a very negative influence to very positive, which should result in improved academic achievement, attendance, and behavior. The following is a partial listing of the major upgrades for the CDS program on the New Vision Continuation High School campus. Each classroom has been designed and constructed to align with a more robust California State building code. This requires that the facility consider energy standards, indoor air quality, fire alarm systems, structural requirements, and accessibility standards that were not considered when the Yosemite campus was constructed. In addition, the school has a dedicated network for the data infrastructure and wireless access points throughout the facility. The large classrooms have superior light and ventilation, and are constructed with acoustical attributes that limit the distraction of the outside environment or activities adjacent to the learning environment. Each classroom has a dedicated audio/video system. Classroom spaces are flexible enough to rearrange or replace furniture, set up workstations and otherwise respond to individual student needs. There is a dedicated counseling room, access to the city of Stockton public library, a field and gymnasium, and an outdoor basketball court for physical education.

The MUSD has certified that a satisfactory separate site for a CDS is not available due to the need for extensive repairs. The MUSD has said it does not anticipate returning the Manteca CDS to the former site when this requested waiver term expires. The MUSD will apply for a subsequent waiver if the repairs are not completed in time for the next school year. However, the current request is only for a single year to provide a record of the anticipated safe colocation on the site of a continuation high school in the event a waiver is requested beyond the current school year.

The local board has certified that there is no other satisfactory alternative site/property in the district for the CDS. The Manteca Teachers Association through its president, Ken Johnson, had no objections. The California School Employees Association, through its representative, Debie McLarty, had no objections. Neither the Manteca CDS nor the New Vision Continuation High School have ever had a School Site Council in prior years. However, due to all schools in the MUSD becoming Title 1, they will begin to hold School Site Council meetings during the 2020–21 school year. However, parents were provided an opportunity to provide comments at the local board meeting when the waiver was considered and approved, but no comments were made. The local board then voted unanimously for the waiver request.

**Demographic Information:**

The MUSD has a student population of 25,000 students and is located in a suburban setting in San Joaquin 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 on the California Legislative Information web page 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:** Manteca Unified School District General Waiver Request   
  1-12-2020 (2 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* Section 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/School Site Council Name,Date of Reviewand Any Objections |
| --- | --- | --- | --- | --- | --- |
| 1-12-2020 | Manteca Unified School District  25,000 students  34 students in Manteca Community Day School  96 students in New Vision Continuation High School  July 21, 2020 | **Requested:**  July 1, 2020,  through  June 30, 2021  **Recommended:**  July 1, 2020,  through  June 30, 2021 | No | Manteca Teachers Association,  Ken Johnson,  President  July 21, 2020  **No Objections**  California School Employees Association,  Debie McLarty Representative  July 21, 2020  **No Objections** | No Existing Community Advisory Committee, Schoolsite Council at time of Local Board Action  Individual parents attended local board hearing on  July 21, 2020  **No Objections** |

Created by the California Department of Education

January 11, 2021

# Attachment 2: Manteca Unified School District General Waiver Request 1-12-2020

CD Code: 3968593

Waiver Number: 1-12-2020

Active Year: 2020

Date In: 9/10/2020 2:38:14 PM

Local Education Agency: Manteca Unified

Address: 2271 W. Louise Ave.

Manteca, CA 95336

Start: 7/1/2020

End: 6/30/2021

Waiver Renewal: No

Previous Waiver Number:

Previous SBE Approval Date:

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 a 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: Due to declining enrollment with Manteca Community Day School over the past couple of years, it was discussed and determined that Manteca Community Day School (7-12) be collocated with New Vision Continuation High School. Bargaining units were informed of this direction and there weren't any concerns identified. Currently, there are a total of 130 students enrolled between Manteca Community Day School and New Vision Continuation High School. Both sites are separate from each other with staff assigned to each site. The services remain the same regardless of new location for Manteca Community Day School. Each site has it's own bell and lunch schedules. The location where Manteca Community Day School was originally located at is being used by the district's Online Academy that has been established during the current Pandemic that is in place. Another reason why collocating facilities waiver needs to be granted. We are doing everything that will benefit all students during the current pandemic that is in effect.

Student Population: 130

City Type: Suburban

Public Hearing Date: 7/21/2020

Public Hearing Advertised: Public Hearing notification 24 hours prior to the board meeting date. Public notice and on district website

Local Board Approval Date: 7/21/2020

Community Council Reviewed By: The 7 Governing Board members elected for Manteca Unified School District

Community Council Reviewed Date: 7/21/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Rupinder Bhatti

Position: Director of Child Welfare and Attendance

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