

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education September 2021 Agenda Item #W-02

## Subject

Request by **Francophone Charter School of Oakland (FCSO)** a charter school under the authority of the California *Education Code* Section 47612.6, to waive *Education Code* Section 47612.5, the audit penalty for offering insufficient instructional minutes during the 2018–19 school year.

## Waiver Number

* 9-3-2021

## Type of Action

Action, Consent

## Summary of the Issue(s)

The charter school above is requesting that the California State Board of Education (SBE) waive the instructional time requirement audit penalty. The Francophone Charter School of Oakland (FCSO) was short instructional minutes for the 2018–19 school year. Per *Education Code* (*EC*) Section 47612.6, the SBE may waive the fiscal penalties set forth in this article for a charter school that fails to maintain the prescribed minimum length of instruction, upon the condition that the school or schools in which the minutes were lost maintain minutes of instruction equal to those lost, in addition to the minimum amount required, for twice the number of years that it failed to maintain the required minimum length of time.

## Authority for Waiver

*EC* Section 47612.6

## Recommendation

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

The California Department of Education (CDE) recommends that the SBE approve the request by the charter school to waive the instructional time penalty for offering less than the required number of instructional minutes for the requested period shown in Attachment 1, as long as the conditions outlined in Attachment 1 are met by the charter school.

If the charter school should close voluntarily, or due to non-renewal, prior to meeting the conditions of the waiver, the charter school will be subject to the full audit penalty and CDE will take action to recover the penalty amount from the charter school.

## Summary of Key Issues

During an audit of instructional minutes and days for 2018–19, it was discovered that FCSO failed to offer the required 50,400 annual minutes in grade one by 5,025 minutes and the required 54,000 annual minutes in grade four by 1,995 minutes. The school was out of compliance with teacher credentialing requirements resulting in disallowance of instructional minutes, leading to a shortage of annual instructional minutes.

FCSO would like to use school years 2021–22 and 2022–23 to make up the shortfall of the instructional minutes. FCSO has submitted documentation showing the school will offer additional minutes for grades one and four during the 2021–22 and 2022–23 school years to comply with the terms of the waiver.

**Demographic Information:**

FCSO has a student population of 311 and is located in an urban area in Alameda County.

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

The SBE has approved similar requests with conditions. *EC* Section 47612.6 authorizes waivers to be granted for fiscal penalties due to a shortfall in instructional time. A waiver may be granted upon the condition that the school, or schools, in which the minutes were lost, maintain minutes equal to those lost, in addition to the minimum amount required for twice the number of years that it failed to maintain the required minimum length of time.

## Fiscal Analysis (as appropriate)

The FCSO 2018–19 instructional minute penalty amount of $9,554 is calculated as follows (some differences due to rounding):

* The average daily attendance (ADA) of 10.38 for students in grade one multiplied by the funding rate of $8,843.73 (value per ADA rate) is equal to the charter’s Local Control Funding Formula (LCFF) apportionment of $91,798.
* A shortfall of 5,025 instructional minutes for the affected grade levels divided by the 50,400-minute requirement is equal to 9.97 percent of minutes not offered.
* The affected LCFF apportionment of $91,798 multiplied by the percentage of minutes not offered is equal to the instructional minute penalty amount of $9,152.
* The average daily attendance (ADA) of 1.34 for students in grade four multiplied by the funding rate of $8,130.65 (value per ADA rate) is equal to the charter’s Local Control Funding Formula (LCFF) apportionment of $10,895.
* A shortfall of 1,995 instructional minutes for the affected grade levels divided by the 54,000-minute requirement is equal to 3.69 percent of minutes not offered.
* The affected LCFF apportionment of $10,895 multiplied by the percentage of minutes not offered is equal to the instructional minute penalty amount of $402.
* The penalty amount of $9,152 for grade one plus the penalty amount of $402 for grade four is equal to the total penalty amount of $9,554.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** FCSO Specific Waiver Request 9-3-2021 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 47612.5

| **Waiver Number** | **Charter** | **Period of Request** | **District’s Request** | **CDE Recommended Action** | **Bargaining Unit Representatives Consulted, Date, and Position** | **Local Board and Public Hearing Approval** | **Penalty Without Waiver** | **Previous Waivers** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 9-3-2021 | Francophone Charter School of Oakland | **Requested:**  July 1, 2018, to June 30, 2019  **Recommended:**  July 1, 2018, to June 30, 2019 | Charter requests waiving *EC* Section 47612.5 to avoid the audit penalty in exchange for offering increased instructional minutes in 2021–22 and 2022–23, consistent with *EC* Section 47612.6. | **Approval** of waiver, consistent with *EC* Section 47612.6 with the following conditions:  (1) Charter maintains increased instructional minutes for grades one and four at Francophone Charter of at least the amount required by law plus 5,025 for grade one and 1,995 minutes for grade four, for a period of two years beginning in 2021–22 through 2022–23, and (2) Charter reports the increased annual instructional minutes offered in in its annual audit report. | **Not Applicable** | Local Board Approval  February 22, 2021 | $9,554 | None |

Created by California Department of Education

June 2021

# Attachment 2: Francophone Charter School of Oakland Specific Waiver Request 9-3-2021

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 0161259

Waiver Number: 9-3-2021

Active Year: 2021

Date In: 3/18/2021 5:38:11 PM

Local Education Agency: Francophone Charter School of Oakland

Address: 1000 Broadway, Ste. 300

Oakland, CA 94607

Start: 7/1/2018

End: 6/30/2019

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Instructional Time Requirement Audit Penalty

Ed Code Title: Charter - Minimum Instructional Time

Ed Code Section: 47605(1)

Ed Code Authority: 47612.6

Ed Code or *CCR* to Waive: *Education Code* Section 47605(1) states that all teachers who are either providing core classroom instruction, or who are authorized to provide core classroom instruction [must possess a valid teaching credential issued form the California Commission on Teaching Credential (CCTC).]

Pursuant to the provisions of subdivision (a)(1) of *Education Code* Section 47612.5, the [minimum instructional minutes offered for grades K, 1-3, and 4-6 should be 36,000, 50,400, and 54,000 respectively.]

Outcome Rationale: To address Ed Code 47605(1) we will adopt the following:

Credentialing Compliance Protocols for Francophone Charter School of Oakland

Policy adopted by Francophone for School Year 2020-21

For every new hire and existing hire Francophone will ensure that the employee has the appropriate teaching credentials by implementing the following procedure:

To address Ed Code 47612.6 we will adopt the following:

As a result some teachers lacking proper credentials for a portion of the school year, the instructional minutes offered for certain grade levels were reduced for the period the teachers did not have the proper credentials. This reduction resulted in grades 1 and 4 offering below the minimum instructional minutes required pursuant to Ed Code 47612.5(a)(1).

Effect: The School was not in compliance with Ed Code 47612.5(a)(1) for grades 1 and 4.

Solution:

The school will need to show that it will be able to meet the condition of the waiver. In order to meet the condition, the school will need to offer the number of minutes they were short for each grade level, in addition to the number of minutes required, for two consecutive years. So, the school would need to offer 5,025 minutes in addition to the required 50,400, for a total of 55,425 minutes for grade one for two years. The school would need to offer 1,995 minutes in addition to the required 54,000 minutes, for a total of 55,995 minutes for grade four for two years.

The school has done this by expanding the Instructional Minutes in said grades indicated above for school years 2021-2022 and 2022-2023. New Bell Schedules with Instructional Minutes have been created.

Student Population: 218

City Type: Urban

Local Board Approval Date: 2/22/2021

Audit Penalty Yes or No: Y

Categorical Program Monitoring: N

Submitted by: Ms. Charlette Richardson

Position: Finance and Operations Manager

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