

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education July 2023 Agenda Item #W-04

## Subject

Request from **Wiseburn Unified School District** under the authority of California *Education Code* Section 49548 to waive *Education Code* Section 49501.5, the State Meal Mandate, for public schools during the summer school session.

## Waiver Number

11-4-2023

## Type of Action

Action, Consent

## Summary of the Issue(s)

Per *Education Code* (*EC*) Section 49550, public school districts and county offices of education are required to provide one nutritionally adequate meal to needy students every school day. As the State Meal Mandate was updated for School Year 2022–2023 with the launch of the California Universal Meals Program per *EC* Section 49501.5 public school districts, county offices of education and charter schools are now required to provide **both** a nutritionally adequate breakfast and a nutritionally adequate lunch during each school day. There is currently proposed legislation that includes technical clean up language to align *EC* sections 49550 and 49501.5.

Per *EC* Section 49548, the State Board of Education (SBE) shall 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. Wiseburn Unified School District (WUSD) has requested summer school meal waivers based upon meeting one of the three conditions outlined in *EC* Section 49548 (see Attachment 1 for more details).

## Authority for Waiver

*Education Code (EC)* Section 49548

## Recommendation

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

WUSD has requested a waiver of *EC* Section 49501.5 for the summer of 2023 and has certified its compliance with condition one of *EC* 49548.

The California Department of Education (CDE) has reviewed the waiver request from the district and recommends approval with the following conditions:

* WUSD shall promote the Summer Food Service Program (SFSP) site operating 0.5 miles away at Del Aire Park throughout the summer school service, and
* WUSD staff shall accompany students who wish to receive a meal to the SFSP meal service site on the first day of summer school.

## 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

A summer school session serving pupils in elementary school shall be granted a waiver if a 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

The summer school day is two hours or less in duration.

**Demographic Information:** WUSD has a student population of 3,842 and is located in a suburban area in Los Angeles County. Summer school enrollment for 2023 at the Juan De Anza Elementary School is estimated to be 100. The percentage of free and reduced-price eligible students at the school site is 27.9.

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

WUSD has previously requested waivers for the State Meal mandate. All prior waiver requests have been approved by the SBE. The most recent request was made in 2020.

## Fiscal Analysis (as appropriate)

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

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** WUSD Waiver # 11-4-2023 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 49548

| **Waiver Number** | **District** | **Period of Request** | **District’s Request** | **CDE Recommendation** | **Local Board and Public Hearing Approval** | **Penalty Without Waiver** | **Previous Waivers** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 11-4-2023 | Wiseburn Unified School District | **Requested:**  June 26, 2023, to July 21, 2023  **Recommended:** June 26, 2023, to July 21, 2023 | Waive the requirement that meals be provided to needy students during summer school per *EC* Section 49548, Condition One. | Approve with Conditions. | 1/19/2023 | None | 5-2-2020 |

Created by California Department of Education   
May 2023

# Attachment 2: Waiver 11-4-2023 Wiseburn Unified School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 1976869

Waiver Number: 11-4-2023

Active Year: 2023

Date In: 4/18/2023 8:52:17 AM

Local Education Agency: Wiseburn Unified

Address: 201 North Douglas St.

El Segundo, CA 90245

Start: 6/26/2023

End: 7/21/2023

Waiver Renewal: No

Waiver Topic: State Meal Mandate

Ed Code Title: Summer School Session

Ed Code Section: 49501.5

Ed Code Authority: 49548

Ed Code or *CCR* to Waive: *EC* 49501.5.

(a) Notwithstanding any other provision of this chapter, commencing with the 2022-23 school year all of the following shall apply:

[(1) A school district or county superintendent of schools maintaining kindergarten or any of grades 1 to 12, inclusive, shall provide two school meals free of charge during each schoolday to any pupil who requests a meal without consideration of the pupil's eligibility for a federally funded free or reduced-price meal, with a maximum of one free meal for each meal service period, except for family daycare homes that shall be reimbursed for 75 percent of the meals served. The meals provided under this paragraph shall be nutritiously adequate meals that qualify for federal reimbursement.]

(2) A charter school shall provide two school meals free of charge during each schoolday to any pupil who requests a meal without consideration of the pupil's eligibility for a federally funded free or reduced-price meal, with a maximum of one free meal for each meal service period. The meals provided under this paragraph shall be nutritiously adequate meals that qualify for federal reimbursement.

(3)

[(A) A local educational agency that has a reimbursable school breakfast program shall not charge any pupil enrolled in transitional kindergarten, kindergarten, or any of grades 1 to 12, inclusive, any amount for any breakfast served to that pupil through the program, and shall provide a breakfast free of charge to any pupil who requests one without consideration of the pupil's eligibility for a federally funded free or reduced-price meal. The meals provided free of charge pursuant to this paragraph shall be nutritiously adequate, and shall count toward the total of two school meals required to be provided each schoolday under paragraphs (1) and (2).]

(B) As used in this paragraph, "school breakfast program" means the nonprofit breakfast program established by Section 4 of the federal Child Nutrition Act of 1966 (42 U.S.C. Sec. 1771 et seq.). Outcome Rationale: For our limited summer school program (approximately 100 students), the students are in school for 3.5 hours per day. Los Angeles County provides free meals for all children at a local park which is located less than half a mile from our Summer School site.

Student Population: 2500

City Type: Urban

Local Board Approval Date: 1/19/2023

Audit Penalty Yes or No: N o

Categorical Program Monitoring: No

Submitted by: Ms. Silke Tecun

Position: HR Technician

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