

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of Education September 2023 Agenda Item #W-10

## Subject

Request by **San Diego Unified School District** to waive portions of California *Education Code* Section 48663(a), relating to community day school minimum instructional minutes.

## Waiver Number

3-1-2023

## Type of Action

Action, Consent

## Summary of the Issue(s)

Request by the San Diego UnifiedSchool District (SDUSD) for a waiver of portions of California *Education Code* (*EC*) Section 48663(a), relating to the Alternative Learning for Behavior and Attitude (ALBA) Community Day Schools’ (CDS’) minimum instructional minutes, for purposes of implementing collaborative professional learning communities (PLCs).

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

The California Department of Education (CDE) recommends approval of this waiver with the following conditions:

* The ALBA CDS, operated by the SDUSD, will reduce the instructional minutes provided to students on 30 days each school year by 50 minutes from the statutory 360 minutes to 310 instructional minutes for purposes of implementing collaborative PLCs. Over each school year, this will result in a reduction of 1,500 instructional minutes over the 30 PLC days.
* The ALBA CDS will increase all other days from the statutory 360 minutes to 370 instructional minutes resulting in 10 additional minutes above the statutory minimum for a gain of 1,500 instructional minutes on non-PLC days over the school year. This will result in an overall net even adjustment with no loss of instructional time.

## Summary of Key Issues

*EC* Section 48663(a) states that CDSs have a minimum instructional day of 360 minutes. The SDUSD is requesting this waiver to be able to include the ALBA CDS teachers, administrator, and all other school staff in regularly scheduled PLC discussions and districtwide professional development and planning. The district maintains that this will support consistency and better quality in instructional strategies at all sites. This is extremely valuable for CDS students who often arrive with significant personal strengths which can be identified and utilized to address the behavioral and/or attendance challenges that led to their referral to the CDS.

### Local Support

The SDUSD local board voted unanimously in support of the waiver request. The ALBA CDS Instructional Minute proposal was initially discussed in a whole staff meeting in March of 2022, where it was unanimously approved. In an effort to include all educational partners, the SDUSD held a public hearing in April of 2022 to meet with community members, partners, and families to discuss the instructional minute proposal. The attendees were very much in favor of the change. The SDUSD then took the proposal to the ALBA CDS Governance Team where the instructional minute change was unanimously approved. All bargaining units as per contract language (Administrators Association San Diego City Schools, Operations Support Services, Office-Technical and Business Services, Paraeducators, and the San Diego Education Association [SDEA]) were notified and consulted and had no objections. Additionally, the SDEA has taken a support position on the waiver through its representative, Mark Hoskisson.

### Rationale for Retroactive Request

While the SDUSD began consultation with its educational partners beginning in March of 2022, actual official positions of these partners were not taken until the end of May 2022. SDUSD program staff then contacted the SDUSD Board of Education, but the first available date they had on their calendar to hear the waiver request was December 13, 2022. Upon their return to school in January of 2023, SDUSD staff received the approval documentation from the local board and submitted the waiver request to the CDE Waiver Office. The ALBA CDS met the conditions that would have been imposed had the waiver been in place during the 2022–23 school year.

**Demographic Information**

The SDUSD has a student population of approximately 100,000 students and is located in an urban setting in San Diego 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 previous waiver requests of the minimum instructional day in a CDS where the district agreed that, if instructional minutes were reduced, other days would be extended so that the total instructional minutes provided to students would equal or exceed the total as normally provided under statute.

## Fiscal Analysis

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:** San Diego Unified School District General Waiver Request 3-1-2023 (3 pages). (Original Waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Alternative Learning for Behavior and Attitude Community Day School General Waiver Information for Regular and Professional Learning Community Days (Daily bell schedules) (1 page)

# Attachment 1: Summary Table of Community Day School State Board of Education Waiver

Portions of California *Education Code* (*EC*)Section 48663(a)

| 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 Review,and Any Objections |
| --- | --- | --- | --- | --- | --- |
| 3-1-2023 | San Diego UnifiedSchool District 100,000 students  150 students in Alternative Learning for Behavior and Attitude (ALBA) Community Day School (CDS)  December 13, 2022  5-0 vote | **Requested:**  September 1, 2022,  through  June 30, 2024  **Recommended:**  September 1, 2022,  through  June 30, 2024 | No | San Diego Education Association (SDEA)  Mark Hoskisson,  SDEA Representative  May 23, 2022  **Support** | ALBA CDS Governance Team  May 23, 2022  **Support – No Objections** |

Created by California Department of Education May 30, 2023

# Attachment 2: San Diego Unified School District General Waiver Request 3-1-2023

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 3768338

Waiver Number: 3-1-2023

Active Year: 2023

Date In: 1/18/2023 12:26:10 PM

Local Education Agency: San Diego Unified

Address: 4100 Normal St.

San Diego, CA 92103

Start: 9/1/2022

End: 6/30/2024

Waiver Renewal: No

Waiver Topic: Equity Length of Time

Ed Code Title: Equity Length of Time

Ed Code Section: 48663a

Ed Code Authority: 33050; 33051b

*Education Code* or *CCR* to Waive: ARTICLE 3. Community Day Schools [48660 - 48666] ( Article 3 added by Stats. 1995, Ch. 974, Sec. 2.)

48663.

(a) [The minimum school day in a community day school is 360 minutes of classroom instruction]

provided by a certificated employee of the district reporting the attendance of the pupils for apportionment funding.

(b) A pupil enrolled in a community day school may not generate more than one day of community day school attendance credit in a school day for any purpose.

(c) For the purposes of calculating the additional funding provided to a school district pursuant to Section 48664, only community day school attendance shall be reported in clock hours. Attendance of less than five clock hours in a school day shall be disregarded for purposes of Section 48664. Five clock hours of attendance in one school day shall be deemed to be one-half day of attendance, for purposes of additional funding pursuant to Section 48664. Six clock hours or more of attendance in one school day shall be deemed to be one day of attendance, for purposes of additional funding pursuant to Section 48664.

(d) Independent study may not be utilized as a means of providing any part of the minimum instructional day provided pursuant to subdivision (a).

(e) A community day school’s academic programs shall be comparable to those available to pupils of a similar age in the school district.

(Amended by Stats. 1998, Ch. 847, Sec. 3. Effective January 1, 1999.)

Outcome Rationale: Being a community day school we have not had any dedicated time to meet as a staff, without students, to address school and district-wide initiatives. We are proposing a change in our instructional minutes, not a reduction. We would like to rearrange our 64,800 required instructional minutes to allow for a 60 minute early release for students 30 days out of our calendar year. This 60 minute block of time without students allows the ALBA staff to meet all district-wide initiatives as well as our school-wide goals. This dedicated time allows us to meet with other atypical schools to discuss curriculum choice, students, and other challenges we face. This dedicated time also allows my staff to prefect their curriculum and work collaboratively on student behavior without asking any staff member to work outside of their contracted hours. By shortening 30 school days by 60 minutes, my entire staff is able to attend our professional development. This includes my teachers, special education assistants, campus security officers, and even my custodian.

We are asking for 2 school years (22-23 and 23-24) to be waived so that we may submit a renewal in the future. Please note that we accept students from our entire school district of 100,00 students. Our population fluctuates between 40-150 students

We have selected 30 days (15 semester 1 and 15 semester 2) to shorten by 50 minutes. This is equivalent to 9,300 instructional minutes. We have lengthened the remaining 150 school days to 370 instructional minutes which is equivalent to 55,500 instructional minutes. Totaling 64,800 for the year. Our lengthened school day (370minutes) is longer than any of the neighborhood traditional school days. Therefore, any student returning at a semester would have the same instructional minutes as a student who stayed with us the entire year.

Student Population: 150

City Type: Urban

Public Hearing Date: 4/12/2022

Public Hearing Advertised: School website, community flyers, individual phone calls to students, families, and community partners.

Local Board Approval Date: 12/13/2022

Community Council Reviewed By: SDUSD School Board

Community Council Reviewed Date: 12/13/2022

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Meghan Voeltner

Position: Principal

E-mail: [mvoeltner@sandi.net](mailto:mvoeltner@sandi.net)

Telephone: 619-344-3900 x3001

Fax: 619-344-3940

Bargaining Unit Date: 05/23/2022

Name: SDEA

Representative: Mark Hoskisson

Title: SDEA Representative

Phone: [mhoskisson@sandi.net](mailto:mhoskisson@sandi.net)

Position: Support

# Attachment 3: Alternative Learning for Behavior and Attitude Community Day School General Waiver Information for Regular and Professional Learning Community Days (Daily bell schedules)

### Regular Day Bell Schedule 2022–23

| **Period** | **Start** | **End** |
| --- | --- | --- |
| Advisory | 8:00 a.m. | 8:38 a.m. |
| Period 1 | 8:41 a.m. | 9:33 a.m. |
| Period 2 | 9:36 a.m. | 10:28 a.m. |
| Period 3 | 10:31 a.m. | 11:23 a.m. |
| Middle School Period 4 | 11:28 a.m. | 12:20 p.ml |
| **High School Lunch** | **11:28 a.m.** | **11:58 a.m.** |
| High School Period 4 | 12:03 p.m. | 12:55 p.m. |
| **Middle School Lunch** | **12:25 p.m.** | **12:55 p.m.** |
| Period 5 | 12:58 p.m. | 1:50 p.m. |
| Period 6 | 1:53 p.m. | 2:45 p.m. |

### Professional Learning Community Day Bell Schedule 2022–23

| **Period** | **Start** | **End** |
| --- | --- | --- |
| Advisory | 8:00 a.m. | 8:26 a.m. |
| Period 1 | 8:29 a.m. | 9:13 a.m. |
| Period 2 | 9:16 a.m. | 10:00 a.m. |
| Period 3 | 10:03 a.m. | 10:47 a.m. |
| Middle School Period 4 | 10:52 a.m. | 11:36 a.m. |
| **High School Lunch** | **10:52 a.m.** | **11:22 a.m.** |
| High School Period 4 | 11:27 a.m. | 12:11 a.m. |
| **Middle School Lunch** | **11:41 a.m.** | **12:11 p.m.** |
| Period 5 | 12:14 p.m. | 12:58 p.m. |
| Period 6 | 1:01 p.m. | 1:45 p.m. |