

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education May 2024 Agenda Item #W-05

## Subject

Request by **Gonzales Unified School District** under the authority of the California *Education Code* Section 46206(a), to waive *Education Code* Section 46207(a), the audit penalty for offering insufficient instructional minutes during the 2021–22 school year.

## Waiver Number

* 9-2-2024

## Type of Action

Action, Consent

## Summary of the Issue(s)

The school district (district) above is requesting that the California State Board of Education (SBE) waive the instructional time requirement audit penalty. The district was short instructional minutes for the 2021–22 school year. Per *Education Code* (*EC*) Section 46206(a), the SBE may waive the fiscal penalties set forth in this article for a school district 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 46206(a)

## Recommendation

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

The California Department of Education (CDE) finds that the request meets the requirements of EC sections 46206 and, therefore, recommends that the SBE approve the request, as long as the conditions outlined in Attachment 1 are met by the district.

If these conditions are not met, the penalties will be reinstated and CDE will take action to recover the penalty amount from the district.

## Summary of Key Issues

During an audit of instructional time for 2021–22, it was discovered that Gonzales Unified School District (GUSD) failed to offer the required 64,800 annual minutes for grades nine through twelve by 3,714 minutes at Gonzales High School. The shortage was due to an adjustment to accommodate the requirement for high schools to have a later start time pursuant to *EC* Section 46148. The administration adjusted the start time, however, the district did not adjust the end time to make up the difference.

GUSD would like to use school years 2024–25 and 2025–26 to make up the shortfall of the instructional minutes. GUSD has submitted documentation showing the affected school site will offer additional minutes for grades nine through twelve during the 2024–25 and 2025–26 school years to comply with the terms of the waiver. As noted in the Fiscal Analysis, below, failure to provide all of the required additional minutes specified in Attachment 1 will result in the reinstatement of the penalty amounts.

**Demographic Information:**

According to DataQuest, Gonzales Unified School District currently has a student population of 2,110 and is located in a rural area in Monterey County.

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

The SBE has approved similar requests with conditions. *EC* Section 46206(a) 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 or days were lost, maintain minutes or days 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.

## Fiscal Analysis (as appropriate)

There is no statewide fiscal impact of waiver approval.

The GUSD 2021–22 instructional minute penalty amount of $599,482 is calculated as follows (some differences due to rounding):

* The average daily attendance (ADA) of 744 for students in grades nine through twelve multiplied by the funding rate of $14,062.05 (value per ADA rate) is equal to the district’s Local Control Funding Formula (LCFF) apportionment of $10,462,165.
* A shortfall of 3,714 instructional minutes for the affected grade levels divided by the 64,800-minute requirement is equal to 5.73 percent of minutes not offered.
* The affected LCFF apportionment of $10,462,165 multiplied by the percentage of minutes not offered is equal to the instructional minute penalty amount of $599,482.

GUSD’s failure to meet the conditions will result in the penalty identified above being reinstated, and the CDE will take action to recover the penalty amount from GUSD’s Local Control Funding Formula entitlement.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** GUSD Specific Waiver Request 9-2-2024 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 46201(a)

| **Waiver Number** | **District** | **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** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 9-2-2024 | Gonzales Unified School District | **Requested:**  July 1, 2021, to June 30, 2022  **Recommended:**  July 1, 2021, to June 30, 2022 | District requests waiving *EC* Sections 46207(a) to avoid the audit penalty in exchange for offering increased instructional minutes in 2024–25 and 2025–26, consistent with *EC* Section 46206(a). | Approval of waiver, consistent with EC Section 46206(a) with the following conditions:  (1) District maintains increased instructional minutes for grades nine through twelve at Gonzales High School of at least the amount required by law plus 3,714 minutes, for a period of two years beginning in 2024–25 through 2025–26, and (2) District reports the increased annual instructional minutes offered in its annual audit report. | Gonzales Teachers Association  Cecilia Birmingham, President  December 12, 2023  **Support** | Local Board Approval  January 29, 2024 | $599,482 | None |

Created by California Department of Education

May 2024

# Attachment 2: Gonzales Unified School District Specific Waiver Request 9-2-2024

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 2775473

Waiver Number: 9-2-2024

Active Year: 2024

Date In: 2/6/2024 3:55:39 PM

Local Education Agency: Gonzales Unified

Address: PO Box 825

Pacific Grove, CA 93950

Start: 7/1/2021

End: 6/30/2022

Waiver Renewal: No

Waiver Topic: Instructional Time Requirement Audit Penalty

Ed Code Title: Below 1982-83 Base Minimum Minutes

Ed Code Section: 46207

Ed Code Authority: 46206

Ed Code or *California Code of Regulations (CCR)* to Waive: (a) Notwithstanding Sections 46200 to 46205, inclusive, upon a determination that a school district equals or exceeds its local control funding formula target computed pursuant to Section 42238.02 as determined by the calculation of a zero difference pursuant to paragraph (1) of subdivision (b) of Section 42238.03, each school district, as a condition of apportionment pursuant to Section 42238.02, as implemented pursuant to Section 42238.03, shall, for each fiscal year, offer, at a minimum, the following number of minutes of instruction:

(1) To pupils in kindergarten, 36,000 minutes.

(2) To pupils in grades 1 to 3, inclusive, 50,400 minutes.

(3) To pupils in grades 4 to 8, inclusive, 54,000 minutes.

[(4) To pupils in grades 9 to 12, inclusive, 64,800 minutes.]

(b) For a school district that has met its local control funding formula target that reduces the amount of instructional time offered below the minimum amounts specified in subdivision (a), the Superintendent shall withhold from the school district's local control funding formula apportionment for the average daily attendance of each affected grade level, the product of that apportionment multiplied by the percentage of the minimum offered minutes at that grade level that the school district failed to offer.

(c) Notwithstanding subdivision (a), for the 2013-14 and 2014-15 school years, a school district that equals or exceeds its computed local control funding formula target may reduce the equivalent of up to five days of instruction or the equivalent number of instructional minutes without incurring the penalties set forth in this section.

Outcome Rationale: The request for a waiver stems from our commitment to comply with California *Education Code* 46148, which mandates that high school days begin no earlier than 8:30 a.m. and middle school days begin no earlier than 8:00 a.m. Although they were being proactive with the changes to the start time of the school day, previous administration failed to extend the length of the school day to accommodate the delayed start time.

The waiver is necessary to rectify this oversight and ensure compliance with state regulations.

Student Population: 777

City Type: Rural

Local Board Approval Date: 1/29/2024

Audit Penalty Yes or No: Yes

Categorical Program Monitoring: No

Submitted by: Ms. Joannie Lumbra

Position: Assistant Superintendent, Business Services

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Telephone: 831-675-0100

Bargaining Unit Date:12/12/2023

Name: Gonzales Teachers Association (GTA)

Representative: Cecilia Birmingham

Title GTA President

Phone: 805-550-5747

Position: Support