

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education September 2024 Agenda Item #W-14

## Subject

Request by **Fountain Valley Elementary School District** to waive *Education Code* Section 56362(c), allowing the caseload of one resource specialist to exceed the maximum caseload of 28 students by no more than four students (32 maximum).

## Waiver Number

1-6-2024

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Fountain Valley Elementary School District (FVESD) requests to increase the caseload of one resource specialist from the maximum allowed caseload of 28 students to 32 students.

## Authority for Waiver

*Education Code* *(EC)* Section 56101

## Recommendation

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

The California Department of Education (CDE) recommends approval with the following conditions: (1) The District must provide each resource specialist instructional aide time of at least five hours daily whenever the resource specialists’ caseloads exceed the statutory maximum caseload of 28 students by no more than 4 students (32 maximum), during the waiver's effective period, per *California Code of Regulations* Title 5 (5 *CCR*), Section 3100(d)(2).

## Summary of Key Issues

A resource specialist is a credentialed teacher providing instruction and services to children with individualized education programs (IEPs) that are assigned to general education teachers for the majority of the school day. Resource specialists coordinate special education services with general education programs as well as provide direct instruction and consultation for students with IEPs.

The CDE, Special Education Division (SED), completes a thorough review of the resource specialist program (RSP) waiver submissions to develop recommendations and conditions including, but not limited to the following:

* Confirming the demographic information on the waiver submission is accurate.
* Contacting the resource teacher to confirm that the teacher agreed to the waiver and confirm the teacher information provided on the waiver submission is accurate.
* Contacting the union representative to confirm that the local educational agency (LEA) contacted the representative about the waiver.
* Reviewing the number of RSP caseload waivers submitted by the LEA over the last two school years to ensure the number of requests are reasonable based on the size of the LEA.
* Reviewing the SED compliance complaint database for any RSP caseload complaints filed against the LEA. If a complaint has been filed, the SED follows up on any determinations of noncompliance and corresponding corrective actions.
* If necessary, contacting the LEA administrator to gather additional information.

Any relevant information obtained from this review is included in the description below.

**Fountain Valley Elementary School District (FVESD)**

The FVESD requests to increase the caseload of Jessica Craig, resource specialist at Plavan Elementary School (PES). There has been an increase in the amount of FVESD students receiving special education services. Ms. Craig currently serves as both an RSP teacher as well as the Assistive Technology (AT) Specialist for the district. This has resulted in her increased caseload.

To address the growing need for special education services in the 2023–24 school year, the FVESD has stated that it plans to seek and train additional staff for AT certification. Over the past four years, the FVESD has not exceeded the maximum caseload limits for the Resource Specialist Program.

The resource specialist has consented to the waiver and has been provided with more instructional aide time than mandated. Originally, the RSP teacher had an instructional aide assigned to their room for 5.5 hours daily. Following the increase in caseload, the teacher received an additional 14 hours of instructional aide support each week.

**Demographic Information:** The FVESDhas a student population of 6,036 and is located in a suburban area in Orange County.

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

*EC* Section 56101 allows the State Board of Education (SBE) to waive any provision of *EC* or regulation if the waiver is necessary or beneficial when implementing a student’s IEP. Title 5 *CCR* section 3100 specifically allows the SBE to approve waivers for RSP caseloads to exceed the maximum caseload of 28 students by no more than 4 students. However, there are specific requirements in regulations which must be met for approval, and if requirements are not met, the waiver must be denied:

(1) The requesting agency demonstrates to the satisfaction of the SBE: (a) that the excess resource specialist caseload results from extraordinary fiscal and/or programmatic conditions; and (b) that the extraordinary conditions have been resolved or will be resolved by the time the waiver expires.

(2) The waiver stipulates that an affected resource specialist will have the assistance of an instructional aide at least five hours daily whenever that resource specialist's caseload exceeds the statutory maximum during the waiver's effective period.

(3) The waiver confirms that the students served by an affected resource specialist will receive all of the services called for in their IEPs.

(4) The waiver was agreed to by any affected resource specialist, and the bargaining unit, if any, to which the resource specialist belongs participated in the waiver's development.

(5) The waiver demonstrates to the satisfaction of the SBE that the excess caseload can be reasonably managed by an affected resource specialist in particular relation to: (a) the resource specialist's student contact time and other assigned duties; and (b) the programmatic conditions faced by the resource specialist, including, but not limited to, student age level, age span, and the behavioral characteristics; number of curriculum levels taught at any one time or any given session; and intensity of student instructional needs.

The SBE receives several waivers of this type each year and most are approved. Due to the nature of this type of waiver, RSP waivers are almost always retroactive.

## Fiscal Analysis

There is no statewide fiscal impact of waiver(s) approval.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Fountain Valley Elementary School District Specific Waiver Request 1-6-2024 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Resource Specialist Caseload Waiver Request, Administrator Supplemental Form (3 Pages)
* **Attachment 4:** Resource Specialist Caseload Waiver Request, Teacher Supplemental Form (4 Pages)

# Attachment 1: Summary Table

California *Education Code* Section 56101

| Waiver Number | School District, School | Name of Teachers, Agrees to Excess Caseload? | Over Statutory Caseload for More Than Two Years? | Previous Aide Time (prior to increased caseload), Current Aide Time (with increased caseload) | Period of Request | Local Board Approval Date | Bargaining Unit, Representative, Consulted, Date, and Position |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1-6-2024 | Fountain Valley Elementary School District  Plavan Elementary School | Jessica Craig,  Yes | No | **Previous:** 5.5 hours per day  **Current:** 5.5 hours per day, & additional 14 hours per week | **Requested**  April 24, 2024, to June 20, 2024  **Recommended**  April 24, 2024, to June 20, 2024 | May 9, 2024 | Fountain Valley Education Association, Jeff Marbut, President 4/29/2024 Neutral |

Created by the California Department of Education

September 2024

# Attachment 2: Fountain Valley Elementary School District Specific Waiver Request 1-6-2024

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 3066498

Waiver Number: 1-6-2024

Active Year: 2024

Date In: 6/5/2024 4:13:39 PM

Local Education Agency: Fountain Valley Elementary

Address: 10055 Slater Ave.

Fountain Valley, CA 92708

Start: 4/24/2024

End: 6/20/2024

Waiver Renewal: No

Waiver Topic: Special Education Program

Ed Code Title: Resource Teacher Caseload

Ed Code Section: 56362 (c)

Ed Code Authority: 56101 and 5 *CCR* Section 3100

Ed Code or *CCR* to Waive: (c) Caseloads for resource specialists shall be stated in the local policies developed pursuant to Section 56195.8 and in accordance with regulations established by the board. No resource specialist shall have a caseload which exceeds 28 pupils.

Outcome Rationale: Increase in RSP teacher caseload which includes Assistive Technology consult only cases.

Student Population: 640

City Type: Suburban

Local Board Approval Date: 5/9/2024

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Cathie Abdel

Position: Assistant Superintendent, Personnel

E-mail: [Abdelc@fvsd.us](mailto:Abdelc@fvsd.us)

Telephone: 714-843-3231

Bargaining Unit Date: 04/29/2024

Name: Fountain Valley Education Association

Representative: Jeff Marbut

Title: FVEA President

Phone: 714-378-4222

Position: Neutral