

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Child Specific NPA or NPS Certification

# California State Board of Education March 2025 Agenda Item #W-03

## Subject

Request by the **Siskiyou County Office of Education** to waive California *Education Code* Section 56366(d), the requirement for state certification, to allow the use of federal and state special education funds for the placement of one high school student with disabilities at the Bayes Achievement Center, an uncertified nonpublic school for students with disabilities with a residential treatment center in Huntsville, Texas.

## Waiver Number

3-12-2024

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Siskiyou County Office of Education (SCOE) is seeking to waive *Education Code (EC)* Section 56366(d), the requirement for state certification to allow the use of federal and state special education funds for the placement of one high school student with disabilities at the Bayes Achievement Center Residential Treatment Center (Bayes Achievement Center), an uncertified school for students with disabilities with a residential treatment center (RTC) in Huntsville, Texas.

The SCOE has not requested a child specific nonpublic school (NPS) certification waiver, previously, for this student. Prior to placing the student at the Bayes Achievement Center, the SCOE exhausted all district placement options before contacting 6 in-state certified NPSs and 34 out-of-state certified NPSs with RTCs to provide a suitable placement for the student. All 40 facilities either declined the application or did not have the services necessary for the student to receive a free and appropriate public education (FAPE). In each instance, the NPS locations indicated the program design did not include adequate support services to address the student’s comprehensive behavioral and educational needs due to a developmental disability. Therefore, SCOE individualized education program (IEP) team found that the Bayes Achievement Center was the best placement to meet the student’s unique needs.

## Background

Under the federal Individuals with Disabilities Education Act (IDEA), students with disabilities must be offered a FAPE in the least restrictive environment (LRE). Local educational agencies (LEAs) must offer a full continuum of program options to meet the educational and related service needs of students with disabilities. Each student found eligible for special education and related services is provided with an IEP which is developed between the LEA and the student’s parent(s) or guardian(s), and others as applicable, to decide what types of instruction and related services are needed to meet the student’s needs in the LRE. One of the placement options available along this continuum is NPSs, which are considered separate schools and highly restrictive placement options.

When an LEA is unable to find an appropriate placement for a student with disabilities in a California public school and/or state-certified NPS due to the student’s comprehensive, unique needs, the IEP team may deem it necessary for the student to be placed in an uncertified NPS that is able to meet the student’s needs. As members of the IEP team, the student’s parent(s) or guardian(s) must be included in the decision-making process and must provide written consent to the placement.

All private school programs and facilities do not necessarily meet the California NPS certification standards for providing special education and specified related services to individuals with exceptional needs. A waiver of the NPS certification requirements authorizes placing LEAs to enter into a master contract agreement with the private school sites which are not certified as a California NPS, and to use federal and state special education funds to finance the placement.

Upon the receipt of a child specific NPS waiver, the California Department of Education (CDE) ensures the LEA submitted all required documentation and performs a detailed analysis of the documentation. If the waiver request meets all of the waiver requirements, the CDE, Special Education Division (SED) will recommend approval of the waiver, along with any appropriate conditions that are specific to the waiver.

## Recommendation

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

The SCOE provided the CDE with all required waiver submission documents. The CDE has reviewed these documents and recommends approval of this waiver, with conditions, for the time period the student is placed at the Bayes Achievement Center from January 2025 through May 2025. This recommendation of approval is contingent upon the following conditions:

* The SCOE will review the student’s placement through an on-site visit to the school at least one time during the period of this waiver. The on-site visits with the school may be accomplished through real-time virtual consultations if there is an LEA policy in effect during the period of this waiver which prohibits travel to the school site due to COVID-related travel restrictions.
  + After each onsite visit the SCOE shall provide written reports to the CDE SED documenting the findings of the visit, or consultation. These reports shall include documentation of the student’s academic and behavioral progress, other information supporting the appropriateness of the placement, and details of the onsite review.
* The SCOE will consult with the Bayes Achievement Center liaison monthly to monitor the provision of services and review the student’s progress using email, phone calls, and/or real-time virtual consultations. The monthly consultation will also include a review of program data. Program data will include the progress on IEP goals, school attendance, work completion rate, grades, active participation in the therapeutic program, and incident/safety reports.
* The SCOE will contact the student and the individual who holds the educational rights of the student, each month, to discuss the student’s progress and to address any concerns.
* The SCOE will schedule IEP meetings, and may participate virtually, if consistent with LEA policies and procedures, at a minimum of every four months to review program data, the student’s progress, both academically and therapeutically, and determine any necessary changes in the student’s academic and/or therapeutic program.

If the waiver is approved, the CDE‘s SED will monitor the conditions established by the State Board of Education (SBE) to ensure the SCOE meets the conditions of the waiver.

## Summary of Key Issues

After receiving notice on October 23, 2024, from the Bayes Achievement Center that it would not renew its certification with the CDE for the upcoming year, the LEA considered the best course of action for the student. The student has been in this placement since October 5, 2020, and per the SCOE it has been the most successful placement in addressing his significant behavioral and emotional needs. The facility is willing to retain the student through the end of the school year, which would allow them to maintain stability and avoid the challenges of transitioning mid-year.

The student's history includes placements at two other out-of-state facilities: Discovery Connections Residential Facility in Springville, Utah, and Monarch Center for Autism in Cleveland, Ohio. At both facilities, the student was discharged due to aggressive and violent behaviors, including an incident that resulted in injury to a staff member. Per the SCOE. these behaviors made it challenging to identify a suitable placement that could meet the student’s needs.

Per SCOE, Bayes Achievement Center has been effective in supporting and managing the student’s behaviors, making it a unique and critical environment for success. The IEP team is evaluating options to ensure the student continues to receive a FAPE in a setting that addresses their comprehensive needs. The student, a 12th grader who will not be returning after this year, is not recommended for a transition to another placement at this time, as per the SCOE, due to the risk of regression and increased behavioral challenges.

**Demographic Information:** The SCOE has a student population of 595 and is located in a rural area in Siskiyou County.

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

Since the September 2019 SBE meeting, excluding this waiver submission, the SBE has received and approved waivers similar to this waiver, allowing LEAs to waive relevant *EC* provisions for using special education funds for the placement of students at sites which have not been certified by the CDE.

## Fiscal Analysis Achievement Center

## If this waiver is approved, the SCOE may utilize state and federal special education funds for the placement of this student at the Bayes Achievement Center. If this waiver is denied, the SCOE may utilize only local funds to support the student’s placement at B. The yearly cost for placement at Alabama Clinical Schools for this student is $371,562.70

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Siskiyou County Office of Education SpecificWaiver Request 3-12-2024 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* (*EC*) Section 56366(d)

| Waiver Number | District | Period of Request | District’s Request | CDE Recommendation | Local Board Approval | Penalty Without Waiver | Previous Waivers |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 3/12/2024 | Siskiyou County Office of Education (SCOE) | **Requested:** January 1, 2025, to May 22, 2025  **Recommended:** January 1, 2025, to May 22, 2025 | To waive NPS certification to allow the SCOE to use state and federal special education funds for the placement of a student in an uncertified NPS | Approval with conditions for the period the student is placed at the uncertified NPS | 10/31/2024 | The SCOE may not use state and federal special education funds for the placement of the student at the uncertified NPS | None |

Created by California Department of Education

March 2025

# Attachment 2: Siskiyou County Office of Education Specific Waiver Request 3-12-2024

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 4710470

Waiver Number: 3-12-2024

Active Year: 2024

Date In: 12/4/2024 4:12:01 PM

Local Education Agency: Siskiyou County Office of Education

Address: 609 South Gold St.

Yreka, CA 96097

Start: 1/1/2025

End: 5/22/2025

Waiver Renewal: No

Waiver Topic: Special Education Program

Ed Code Title: Child Specific/ NPA or NPS Certification

Ed Code Section: 56365.(h)

Ed Code Authority: 56101

Ed Code or *CCR* to Waive: (h) In addition to meeting the requirements of Section 56366.1, a nonpublic, nonsectarian school or agency that operates a program outside of this state shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

Outcome Rationale: Student has been in this placement since 10/5/2020. On 10/23/2024 LEA received notice of discharge of student due to the facility choosing not to renew their application for approval with the California Department of Education for the upcoming year. The facility is willing to keep the student until the end of the school year, which is May 22, 2025. Allowing him to remain there for the extra months will be easier on him than trying to locate a placement and transition in the middle of the school year.

Student Population: 81

City Type: Suburban

Local Board Approval Date: 10/31/2024

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Michelle Hogue

Position: Principal/Program Manager

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