

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education March 2025 Agenda Item #W-06

## Subject

Request by **Santa Monica-Malibu Unified School District** under the authority of the California *Education Code* Section 46206(a), to waive *Education Code* Section 46207(b), the audit penalty for offering insufficient instructional minutes during the 2022–23 school year.

## Waiver Number

7-10-2024

## 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 2022–23 school year. Per California *Education Code* (*EC*) Section 46206(a), the SBE may waive the fiscal penalties set forth in this article for a 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) recommends that the SBE approve the request by the district to waive the instructional time fiscal penalty for offering less than the required instructional minutes for the requested period shown in Attachment 1, as long as the conditions outlined in Attachment 1 are met by the district.

If these conditions are not met, the penalty 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 2022–23, it was discovered that Santa Monica-Malibu USD (SMMUSD) failed to offer the required 54,000 annual minutes at Grant Elementary for grades four and five by 360 minutes. The shortage was due to insufficient knowledge of instructional time requirements by the staff preparing the bell schedules at the school site and a lack of internal controls over the review of bell schedules at the district level.

SMMUSD would like to use school years 2024–25 and 2025–26 to make up the shortfall of the instructional minutes. SMMUSD has submitted documentation showing the affected school site will offer additional minutes for grades four and five during the 2024–25 and 2025–26 school years to comply with the terms of the waiver.

**Demographic Information:**

According to DataQuest, Santa Monica-Malibu USD currently has a student population of 8,641 and is located in a suburban area in Los Angeles 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)

The SMMUSD 2022–23 instructional minute penalty amount of $79,705 is calculated as follows (some differences due to rounding):

* The average daily attendance (ADA) of 1,211.48 for grades four and five multiplied by the funding rate of $9,819.63 (value per ADA rate) is equal to the district’s Local Control Funding Formula (LCFF) apportionment of $11,896,285.
* A shortfall of 360 instructional minutes for the affected grade levels divided by the 54,000-minute requirement is equal to 0.67 percent of minutes not offered.
* The affected LCFF apportionment of $11,896,285 multiplied by the percentage of minutes not offered (0.67%) is equal to the instructional minute penalty amount of $79,705.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Santa Monica-Malibu Unified School District Specific Waiver Request 7-10-2024 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 46206(a)

| **Waiver Number** | **Charter School** | **Period of Request** | **Charter Request** | **CDE Recommended Action** | **Bargaining Unit Representatives Consulted, Date, and Position** | **Local Board and Public Hearing Approval** | **Penalty Without Waiver** | **Previous Waivers** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 7-10-2024 | Santa Monica-Malibu USD | **Requested:**  July 1, 2022, to June 30, 2023  **Recommended:**  July 1, 2022, to June 30, 2023 | District requests waiving *EC* Sections 46207(b) 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 four and five at Grant Elementary of at least the amount required by law plus 360 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. | Santa Monica-Malibu California Teachers Association  Claudia Bautista, President  September 14, 2024  **Support** | Local Board Approval  October 10, 2024 | $79,705 | None |

Created by California Department of Education

March 2025

# Attachment 2: Santa Monica-Malibu Unified School District Specific Waiver Request 7-10-2024

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 1964980

Waiver Number: 7-10-2024

Active Year: 2024

Date In: 10/14/2024 2:26:21 PM

Local Education Agency: Santa Monica-Malibu Unified

Address: 1717 4th St.

Santa Monica, CA 90401

Start: 8/18/2022

End: 6/12/2023

Waiver Renewal: No

Waiver Topic: Instructional Time Requirement Audit Penalty

Ed Code Title: Below 1982-83 Base Minimum Minutes

Ed Code Section: 46207 (a) (3)

Ed Code Authority: Section 42238.03

Ed Code or *CCR* to Waive: California *Education Code* Section 46207(a)(3) specifies that 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, 54,000 minutes of instruction to pupils in grades 4 to 8, inclusive.

Outcome Rationale: At one of the sites selected for testing instructional time offered, we noted that grades 4 and 5 did not offer the minimum number of minutes required. Pupils in grades 4 and 5 were offered 53,640 minutes during the 2022-2023 fiscal year. We discovered the condition during the compliance audit of Instructional Time using documents provided by District management. The cause is a lack of District Office level controls over instructional time schedules calculated at the site level. The schedules prepared by staff at the site were not reviewed in advance of the beginning of the school year by staff at the District Office with knowledge of the *Education Code* requirements.

Student Population: 8641

City Type: Suburban

Local Board Approval Date: 10/10/2024

Audit Penalty Yes or No: Yes

Categorical Program Monitoring: No

Submitted by: Mr. Patrick Miller

Position: Director, Assessment, Research, and Evaluation

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Bargaining Unit Date: 09/14/2024

Mane: Santa Monica-Malibu California Teachers Association

Representative: Claudia Bautista

Title: President

Phone: 310-210-5325

Position: Support