

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of Education May 2023 Agenda Item #W-02

## Subject

Request by the **Chico Unified School District** for a waiver of portions of California *Education Code* Section 48660 to permit the Academy for Change community day school to serve students in grade six with students in grades seven through twelve, but no grade lower than grade six.

## Waiver Numbers

12-12-2022

## Type of Action

Action, Consent

## Summary of the Issue(s)

Request by the Chico Unified School District (CUSD) for a waiver of portions of California *Education Code* (*EC*)Section 48660 to permit the Academy for Change (AFC) community day school (CDS) to serve students in grade six with students in grades seven through twelve, but no grade lower than grade six.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

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

* The AFC shall be permitted to serve students in grade six with students in grades seven through twelve, but no grade lower than grade six.
* Middle grade students—those in grades six through eight—enrolled in the AFC shall be educated separately from students in high school grades and shall not be educated in combination with students in high school grades.
* In accordance with *EC* Section 48661(b), the CUSD shall maintain its certification for the duration of this waiver on the basis of a two-thirds annual vote of the local governing board that satisfactory alternative facilities are not available for a CDS.

## Summary of Key Issues

### Grade Spans – Requesting Grades Six through Twelve

*EC* Section 48916.1(a) requires school districts to ensure that each of their expelled students be provided an educational program during the period of expulsion.

*EC* Section 48660 provides that the governing board of a school district may establish one or more CDSs. *EC* Section 48660 also provides that a CDS may serve pupils in any of kindergarten and grades one to six, inclusive, or any of grades seven to twelve, inclusive, or the same or lesser included range of grades as may be found in any individual middle or junior high school operated by the school district.

The CUSD, while a large urban district of 12,608 students, has been determined, through extensive use of other means of correction, to greatly limit enrollment in its CDS to serve a maximum of approximately 50 students at a time. Currently, 37 students are enrolled in the AFC, including 16 middle grade students and 21 high school students.

Throughout the district, the CUSD serves students in the common structure of elementary (kindergarten through grade five), middle (grades six through eight), and high school (grades nine through twelve). The district does not expect more than a small number of sixth grade students to be enrolled in the AFC.

This year, only one sixth grade student has been deemed in need of attendance in the AFC. CUSD states that it is not fiscally feasible to operate two CDSs, one for students in grades one through six, and a second for students in grades seven through twelve. Without this waiver, expelled sixth graders would have to be served outside of the district. At the same time, the CUSD recognizes its responsibility to ensure that educational placements are available for expelled and other high-risk students. Within the AFC, the middle grade and high school students are, and have always been, educated separately since the school was established in 2005.

### Safety Measures

Safety measures to ensure that students from the middle grade and high school students enrolled in the AFC are supported and separated from each other, are as follows:

* The AFC middle grade and high school classes are fully separated from each other.
* The middle school teachers have experience teaching sixth grade students. The CUSD believes they could better serve the few sixth graders needing such an alternative placement if these students could remain within the district and receive supportive instruction, including a wide range of support services in the CDS with other middle school students.
* Bathroom breaks take place during a pre-determined time throughout each period, and middle grade student restroom breaks are separate from high school student restroom breaks. Each teacher has a specific timeframe within the period to release students, two at a time, to meet the campus supervisor at the locked restrooms where they are opened for those two students. No more than two students are ever allowed to use the restroom at the same time. The AFC classrooms are visible from the restrooms allowing the campus supervisor to watch students walk to and from the restrooms.
* All student movement, before, during and after school, involves an escort by various staff members and all staff carry radios for communication throughout the day. The campus is also monitored by a 1.0 full-time equivalent (FTE) school resource officer.
* A strong focus of the AFC campus is on mental health support and wrap around services for students as follows:
  + Principal and assistant principal
  + Intervention specialist available to assist students throughout the day
  + School resource officer on campus four days a week
  + Students see four teachers in a rotation throughout the school day plus 1.0 FTE special education teacher and one instructional paraprofessional for students with Individualized Education Programs and Section 504 Plans
  + Access to School Based Intervention Team (SBIT) members at any time; SBIT consists of three wellness counselors, two school counselors, a contracted licensed clinical social worker (LCSW), a targeted case manager, an intervention specialist, an administrator, .4 FTE of a school psychologist, and interns and volunteers from California State University, Chico (currently one intern and three volunteers. The amount of time varies according to their availability). The SBIT members support the entire alternative education campus and its four programs, the AFC included.
  + Restorative practices in the classroom and as needed for student support individually and group
  + Students can request a specific SBIT member through Google Form via Chromebooks and/or verbal in-person request
  + Individual and/or group counseling available to all students
  + Referrals to outside agencies for intensive support services through CareSolace
  + Equine Connections (horse therapy program) for students: SBIT members identify students via self, staff or family referrals to counseling
  + Staff Equity Alliance to support students and families
  + Social emotional learning curriculum for students
  + Self-regulation workshops for staff
  + Positive Behavioral Interventions and Supports
  + In-school suspension classroom for “resets” and suspensions
  + New Leaf Treatment Center curriculum for students suspended for substance related issues
  + Brief intervention curriculum facilitated by counselors or contracted LCSW for students suspended for substance related issues or requesting support
  + Tobacco-Use Prevention Education support services
  + Student and staff garden to support students struggling to self-regulate

### Local Support

The local board voted unanimously to request this waiver. The Chico Unified Teachers Association supports the waiver through its president, Kevin Moretti. The California School Employees Association supports the waiver through its president, Lori Sullivan. The AFC School Site Council had no objections.

**Demographic Information:**

The CUSD has a student population of 12,608 students and is located in an urban setting in Butte 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 several previous waiver requests from unified school districts requesting authorization to permit a CDS to serve students in grades six through twelve, inclusive, allowing the district to serve all of its middle school students in need of CDS services when separate alternative facilities for the sixth grade students are not feasible.

## Fiscal Analysis

There is no statewide fiscal impact of this waiver renewal and approval.

## Attachment(s)

* **Attachment 1:** Summary Table of Community Day School State Board of Education Waiver (1 page)
* **Attachment 2:** Chico Unified School District General Waiver Request   
  12-12-2022 (2 pages). (Original Waiver request is signed and on file in the Waiver Office.)

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

Portions of California *Education Code* (*EC*)Section 48660

| 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 Reviewand Any Objections |
| --- | --- | --- | --- | --- | --- |
| 12-12-2022 | Chico Unified School District  12,608 students  37 students in Academy for Change Community Day School  December 14, 2022  5-0 vote | **Requested:**  August 15, 2022  through  June 30, 2024  **Recommended:**  August 15, 2022  through  June 30, 2024 | No | Chico Unified Teachers Association  Kevin Moretti,  President  December 8, 2022  **Support**  California School Employees Association Chapter 110 Lori Sullivan, President  December 8, 2022  **Support** | Academy for Change School Site Council  December 14, 2022  **No Objections** |

Created by California Department of Education

January 25, 2023

# Attachment 2: Chico Unified School District General Waiver Request 12-12-2022

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 0461424

Waiver Number: 12-12-2022

Active Year: 2022

Date In: 12/19/2022 4:05:54 PM

Local Education Agency: Chico Unified

Address: 1163 East Seventh St.

Chico, CA 95928

Start: 8/15/2022

End: 6/30/2024

Waiver Renewal: No

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Community Day Schools

Ed Code Title: Commingle Grade Levels

Ed Code Section: Portions of Section 48660

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: Portions of *Education Code* Section 48660. A community day school may serve pupils in any of kindergarten and grades 1 to 6, inclusive, or any of grades 7 to 12, inclusive, or the same or lesser included range of grades as may be found in an individual middle or junior high school operated by the school district.

Outcome Rationale: The Academy for Change (AFC) community day school has been located on the Fair View High School campus since 2005 and serves students in grades 7-12. The AFC would like to add sixth grade to follow the current model of our Chico Unified School District, which holds grades 6-8 in junior high school sites and grades 9-12 in high school sites.

There are currently 16 junior high students and 21 high school students attending the AFC.

The AFC has been successful in maintaining order and security throughout the campus, preventing harmful interactions between junior high and high school students. These two groups are always separated and will continue this separation with the addition of sixth grade.

\*Please see attachment.

Student Population: 12608

City Type: Urban

Public Hearing Date: 12/14/2022

Public Hearing Advertised: It was on the District Board Agenda, shared with the community and media.

Local Board Approval Date: 12/14/2022

Community Council Reviewed By: AFC School Site Council

Community Council Reviewed Date: 12/7/2022

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Rocio French

Position: Administrative Assistant, Business

E-mail: [rfrench@chicousd.org](mailto:rfrench@chicousd.org)

Telephone: 530-891-3000 x20111

Bargaining Unit Date: 12/08/2022

Name: California School Employees Association Chapter 110

Representative: Lori Sullivan

Title: President

Phone: 530-514-8268

Position: Support

Comments:

Bargaining Unit Date: 12/08/2022

Name: Chico Unified Teachers Association

Representative: Kevin Moretti

Title: President

Phone: 530-828-9803

Position: Support

Comments: