

**GENERAL & SPECIFIC WAIVER COVER SHEET**  
**CALIFORNIA STATE BOARD OF EDUCATION**  
**APRIL 2003 AGENDA**  
**Item No. W-9**

<p><b>TITLE:</b> Request by <b>Fresno Unified School District</b> to waive <i>Education Code</i> (EC) Section 37252(e) to allow the district to receive funds made available for “intervention funds” in the time periods specified by statute to be used <b>throughout the regular school day</b> (specific waiver authority EC 37252.1(a)(1)(A)) and EC 37202, the equity length of time requirement (general waiver authority) and for students at <b>Cooper Middle School</b>.</p> <p><b>CDSIS:</b> 40-2-2003</p>	<p><u>  X  </u> <b>ACTION</b> <u>      </u> <b>INFORMATION</b> <u>      </u> <b>PUBLIC HEARING</b> <u>      </u> <b>CONSENT</b></p>
---	---

**RECOMMENDATION:**

The Department recommends:

Approval through June 30, 2004, on the condition that Cooper Middle School provide an evaluation and report on the success of the program to the California Department of Education (CDE) Waiver Office by October 1, 2004.

---

**Summary of Previous State Board of Education Discussion and Action:**

In June 2000, Fresno Unified requested a waiver under the General Waiver (use funds restricted to supplemental usage; after school, before school, or during summer school) to **extend the school day by 60 minutes for ALL students** thus making the “**intervention time**” **required for all students**. On **July 12, 2000** the State Board of Education (SBE) **approved a waiver** for Cooper School, where 85% of the student population are at poverty level, transience rates are high and 85 % of students were scoring below the 50<sup>th</sup> percentile on the SAT 9 in 1999. Unfortunately, it was later discovered that E.C. 37252, was made “non waivable,” by SB 1683, effective on **July 5, 2000**. So the SBE had approved the waiver seven days too late and it had to be “**rescinded as a matter of law.**”

The district then sought **legislative permission to pilot** the program for the next two years. AB 1285, Reyes was not passed in 2001, but on June 20, 2002 was signed by the Governor. The new statute was E.C. 37252.1, a specific waiver authority, approved as an urgency measure, with some specific conditions, and named the pilot the “Cooper Intervention Program” with funding (after Board approval) from June 20, 2002 through June 30, 2004.

**Summary of Key Issue(s):**

Attached is the waiver application and program description for the Cooper Intervention Program. The school day for all students goes from 8 am to 3:10 pm with block scheduling. The mandatory instructional minutes for a middle school are 54,000 minutes. This plan will

**add 8,800 minutes** to the school year, bringing the total to 62,800, which **roughly equates to 29 additional days of student teacher contact time**. The plan will add two additional 35-minute blocks to the Language Arts (ELA) and Mathematics/Algebra content areas during the school day.

The statute being waived requires:

*E.C. 37252 (e) Instructional programs may be offered pursuant to this section during **the summer, before school, after school, on Saturday, or during intersession**, or in any combination of summer, before school, after school, Saturday, or intersession instruction, **but shall be in addition to the regular school day.***

Unlike the initial waiver request, although the restricted supplemental funds may NOW be used within the regular school day, the new statute still requires that the “intervention money” in E.C. 37252 be used **only to fund students whose performance** on the English language arts and mathematics parts of the California Standards Tests is at the **below basic or far below basic levels**. Cooper may provide the same program to students with higher test scores, but “the district **may not use funds** made available pursuant to Section **37252** to offer these pupils a longer instructional day.” The teachers union has indicated support for this project.

In addition the district requests a General Waiver of E.C. 37202 “...*the governing board of any school district shall maintain all of the elementary day schools established by it for an equal length of time during the school year, all of the day high schools established by it for an equal length of time during the school year.*”

The students at Cooper Middle School (serving 750 grade 7-8 students) will be receiving 62,800 minutes, instead of the 54,000 minutes provided to students at the other 17 schools in the district serving those grades. Unlike other equity length of time waivers it is probable not possible to have a full “open enrolment” policy as the space in this school will be limited, but the new statute specifically allowed that one school to be longer by one hour daily. In addition Cooper currently has many vacancies, as students have moved out due to the low performance of the school on statewide testing, which this program hopes to turn around, so there will be room to add back students for some time.

Therefore on the basis of this clear statutory intent, and the expected benefits to these students, in implementing and testing a new type of “intervention program” which may prove to be a model for future interventions, the Department recommends approval of this waiver for Fresno Unified School District for Cooper Middle School through June 30, 2004, on the condition that Cooper Middle School provide an evaluation report on the success of the program to the California Department of Education (CDE) Waiver Office by October 1, 2004.

---

Bargaining unit(s) consulted on: 1/10/03, 1/14/03, and 1/24/03

Position of bargaining unit (choose only one):

Neutral

Support

Oppose

Name of bargaining unit representative: **Sherry Wood Fresno Teachers Association**

Public hearing identified by (choose one or more):

posting in a newspaper     **posting at each school**     other

(specify) \_\_\_\_\_

Public hearing held on: Feb. 12, 2003

Local board approval date: Feb. 12, 2003

Advisory committee(s) consulted: **Cooper Middle School – School Site Council**

Objections raised (choose one):  None     Objections are attached on  
separate sheet

Date consulted: 9/24/03

Effective dates of request: 6/20/02 through 6/30/04

**Fiscal Analysis (as appropriate):**

This waiver will be neutral in terms of state costs, as **the intervention money will only be used to fund intervention for those students qualifying for the funds.** Locally, it will allow a usage of those funds in a matter never before allowed, and will benefit ALL students more consistently than the previous intervention program, which students chose to attend, or not, as there was no compulsory requirement.

---

**Background Information:** Documentation attached.