

**SPECIFIC WAIVER COVER SHEET**  
**CALIFORNIA STATE BOARD OF EDUCATION**  
**JANUARY 2004 AGENDA**  
**Item No. W-11**

|   |   |
|---|---|
| <p><b>TITLE:</b> Request by <b>Newport-Mesa Unified School District</b> to waive <i>Education Code</i> (EC) Section 46201(d), the longer day instructional time penalty for fiscal year 2001-2002 at <b>Middle College High School</b> due to a shortage of 1,800 instructional minutes.</p> <p><b>CDSIS:</b> 3-10-2003</p> | <p><u>  X  </u> <b>ACTION</b><br/><u>      </u> <b>INFORMATION</b><br/><u>      </u> <b>PUBLIC HEARING</b><br/><u>      </u> <b>CONSENT</b></p> |
|---|---|

**RECOMMENDATION:**

The Department recommends approval on the condition that the district maintain increased instructional time at **Middle College High School** from the required 64,800 minutes per year to 66,600 minutes per year (64,800 plus the 1,800 minutes short) for a period of two years beginning in 2003-2004 and continuing through 2004-2005, and report the increase in its yearly audits.

---

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

On January 1, 2002, with SB 178, the existing EC authority, Section 46206 was repealed, and a new Section 46206 added to the EC. In the fall of 2002, AB 1227 was passed by the Legislature and signed into law by the Governor. It authorizes waivers to be granted for fiscal penalties created by shortfalls of instructional time in the 2000-01 fiscal year or thereafter only if the makeup minutes or days, or both, are commenced not later than the school year following the year in which the waiver is granted and removes the 900-minute restriction for waivers of this type. While there is a board policy for these types of waivers, this waiver does not meet the requirements of the policy.

---

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

The Newport-Mesa Unified School District requests a waiver of *Education Code* (EC) Section 46201(d), the longer day instructional time penalty, which states that sixty-four thousand, eight hundred minutes of instructional time must be offered at the high school level. In the 2001-2002 school year, the Newport-Mesa Unified School District incorrectly calculated for minutes for Middle College High School using the number of minutes for the fourth through eighth grade levels of 54,000 instructional minutes. In order to prevent this from reoccurring in the future, the district has instituted a spreadsheet to correctly calculate the instructional minutes at all the schools in the district. The penalty for this error is **\$754,971.87**. The district will begin to make up the instructional time beginning in school year 2003-2004 by increasing the instructional time at **Middle College High School** to 66,600 (64,800 plus 1,800).

Therefore, the department recommends approval on the condition that the district maintain increased instructional time at **Middle College High School** from the required 64,800

minutes per year to 66,600 minutes per year (64,800 plus the 1,800 minutes short) beginning in 2003-2004 and continuing through 2004-2005, and report the increase in its yearly audits.

---

Authority for the waiver: 46202

Bargaining unit(s) consulted on: 08/07/03 and 08/08/03

Position of bargaining unit (choose only one):

Neutral

Support

Oppose

Name of bargaining unit representative: Jim Rogers, Richard Hoff, Stephen Harper, Rajia Blank, and Charlotte Zaremba

Local board approval date: 09/09/03

Effective dates of request: July 1, 2001 through June 30, 2002

---

**Fiscal Analysis (as appropriate):**

- The repayment amount for offering less than the 1986-87 minutes per *Education Code* (EC) Section 46201(d), as required by law is: 5699.44 (Affected ADA) times \$4,764.90 (Base Revenue Limit) equals \$27,157,261.66 (Apportionment). 1,800 (Number of minutes short) divided by 64,800 (Number of required minutes) equals 0.0027777778 (Percentage). \$27,157,261.66 (Apportionment) times 2.78% (Percentage) equals **\$754,971.87 (Penalty)**.

---

**Background Information:**

Waiver request forms and supporting documents are attached to this summary.