

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

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| <p><b>TITLE:</b> Request by <b>Kerman Unified School District</b> to waive <i>Education Code</i> (EC) Section 46201(d), the longer day instructional time penalty for falling below the 1986/87 minutes and to waive <i>Education Code</i> Section 46202(b), for falling below the 1982/83 offered number of minutes in fiscal year 2001-2002.</p> <p><b>CDSIS:</b> 11-03-2003</p> | <p><input checked="" type="checkbox"/> <b>ACTION</b><br/><input type="checkbox"/> <b>INFORMATION</b><br/><input type="checkbox"/> <b>PUBLIC HEARING</b><br/><input type="checkbox"/> <b>CONSENT</b></p> |
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**RECOMMENDATION:**

The Department recommends approval on the condition that the district maintains increased instructional time for a period of two years, beginning in fiscal year 2003-2004 and continuing through 2004-2005, and reports the increase in its annual audits. **Sun Empire Elementary** must maintain increased instructional minutes of 51,960 for grades 1-3 (50,400 plus 1,560) and increased instructional minutes of 55,400 (54,000 plus 1,400) for grades 4-6. **Kerman High School** must maintain increased instructional minutes of 66,200 (64,800 plus 1,400) for grades 9-12.

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**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On January 1, 2002, with SB 178, the existing *EC* authority, Section 46206 was repealed, and a new Section 46206 added to the *EC*.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. All waivers must go to action on the SBE's agenda.

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

**Kerman Unified School District** requests a waiver of *Education Code* Section 46201(d), the longer day instructional time penalty, which states that fifty thousand four hundred instructional minutes must be offered in grades 1-3, (Sun Empire Elementary) fifty four thousand instructional minutes must be offered in grades 4-8 (Sun Empire Elementary) and sixty four thousand eight hundred instructional minutes must be offered in grades 9-12 (Kerman High School).

In fiscal year 2001-2002, **Sun Empire Elementary School** failed to meet the grades 1-3 requirement of 50,400 instructional minutes by 1,560 minutes, the grades 4-6 requirement of 54,000 instructional minutes by 1,400. **Sun Empire Elementary School** also was cited for

a violation of *EC* Section 46202(b), for falling below the 1982/83 offered number of minutes by being short 1,400 minutes of the required 55,100 minimum instructional minutes for grades 4-6. **Sun Empire Elementary School** incorrectly counted passing time and lunch breaks for their annual instructional minutes. This resulted in a fiscal penalty of \$228,162.79.

In fiscal year 2001-2002, **Kerman High** failed to meet the requirements of the longer day incentive program requirement of 64,800 instructional minutes in grades 9-12 by 1,400 minutes. This happened because **Kerman High** incorrectly counted passing times and lunch breaks in addition to incorrectly counting a tutorial time at the end of the school day. This resulted in a fiscal penalty of \$85, 180.40.

Combined these errors at both school sites result in a **total fiscal penalty of \$313,343.19.**

Starting in 2003-2004, Kerman Unified School District will begin making up the instructional time at both **Sun Empire Elementary School** and **Kerman High School**. Therefore, the department recommends approval on the condition that the district maintains increased instructional time for a period of two years, beginning in fiscal year 2003-2004 and continuing through 2004-2005, and reports the increase in its annual audits. **Sun Empire Elementary** must maintain increased instructional minutes of 51,960 for grades 1-3 (50,400 plus 1,560) and increased instructional minutes of 55,400 (54,000 plus 1,400) for grades 4-6. **Kerman High School** must maintain increased instructional minutes of 66,200 (64,800 plus 1,400) for grades 9-12.

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Authority for the waiver: 46206

Bargaining unit(s) consulted on: 01/16/03

Position of bargaining unit (choose only one):

Neutral

Support

Oppose

Name of bargaining unit representative: Scott Bishop and Jerry McCracken

Local board approval date: 02/13/03

Effective dates of request: 07/01/01 to 06/30/02

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**Fiscal Analysis (as appropriate):**

- The repayment amount for offering less than the 1986-87 minutes for grades 1-3 at Sun Valley Elementary per *Education Code* Section 46201(d), as required by law is: 821.34 (Affected ADA) times \$4,624.25 (Base Revenue Limit) times 3.10% (Deficit Factor) equals \$117,559.66 (Apportionment).
- The repayment amount for offering less than the 1986-87 minutes for grades 4-6 at Sun Valley Elementary per *Education Code* Section 46201(d), as required by law is: 772.45 (Affected ADA) times \$4,624.25 (Base Revenue Limit) times .56% (Deficit Factor) equals \$19,844.46 (Apportionment).
- The repayment amount for offering less than the 1986-87 minutes for grades 9-12 at Kerman High per *Education Code* Section 46201(d), as required by law is: 852.60

(Affected ADA) times \$4,624.25 (Base Revenue Limit) times 2.16% (Deficit Factor) equals \$85,180.40 (Apportionment).

- The repayment amount for offering less than the 1982-83 minutes for grades 4-6 at Sun Valley Elementary per *Education Code* Section 46202 as required by law is: 772.45 (Affected ADA) times \$4,624.25 (Base Revenue Limit) times 1 (Deficit Factor) equals \$3,572,001.91 (Apportionment). 1,400 (number of minutes short) divided by 55,100 (Required number of minutes) equals 0.025408348. \$3,572,001.91 (Apportionment) times 2.54% (Percentage) equals \$90,758.67.
- The total fiscal penalty is **\$313,343.19**.

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**Background Information:**

Waiver request forms and supporting documents are attached.