

SPECIFIC WAIVER COVER SHEET
CALIFORNIA STATE BOARD OF EDUCATION
MARCH 2003 AGENDA
Item No. W-3

<p>TITLE: Request by Tipton Elementary School District to waive <i>Education Code</i> Section 46201(c)(1)(2)(3), the longer day instructional time penalty and <i>Education Code</i> Section 46202(a), the penalty for falling below the instructional time 1982-83 baseline for the 2000-2001 school year for kindergarten at Tipton Elementary School.</p> <p>CDSIS: 12-01-2003</p>	<p><u> X </u> ACTION <u> </u> INFORMATION <u> </u> PUBLIC HEARING <u> </u> CONSENT</p>
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RECOMMENDATION:

The Department recommends approval on the condition that the district maintain increased instructional time at **Tipton Elementary School** to 48,530 minutes per year (40,465 plus the 8,065 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On January 1, 2002, the existing *Education Code (EC)* authority, Section 46206 was repealed, and a new *EC* Section 46206 added to the *Education Code*, changing the statutory basis for the board's waiver authority. Department staff will analyze the waivers submitted pursuant to the amendments made to *EC* Section 46206 and will provide the board with their recommendations, based upon the facts presented by each application.

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.

Summary of Key Issue(s):

Tipton Elementary School District requests a waiver of *Education Code* Section 46201(c), the longer day instructional time penalty, which states that thirty-six thousand minutes instructional time must be offered in kindergarten and a waiver of *Education Code* Section 46202, the baseline number of instructional minutes offered at that grade level in the 1982-93 fiscal year. In fiscal year 2000-01, Tipton Elementary School failed to meet their requirement of 40,465 instructional minutes (their baseline 1982-83 level) by 8,065 minutes.

This was due to an **influx of kindergarten age children** to the district. In order to maintain the Class Size Reduction program, the district offered AM and PM kindergarten classes. During an audit, the district realized that they had erroneously been offering **only 180 minutes a day for these classes when they needed to maintain a 240 minute minimum**.

To rectify this, the district has dropped out of the Class Size Reduction program at the kindergarten level. They have applied funding to build new classrooms to accommodate Class Size Reduction at the kindergarten level. Once the new construction is completed, the district is planning to return the kindergarten classes to the Class Size Reduction Program. **The fiscal penalty is \$223,985.49, which is a large amount of money for a small one school district (ADA of 480) to pay back.**

Beginning in fiscal year 2003-04, and continuing into fiscal year 2004-05, the school will begin making up the shortage by offering the kindergarteners attending Tipton Elementary School, 270 minutes a day. The district will also adopt the Early Primary Program per *Education Code* Sections 8970-8974, in order to increase the number of minutes over the **four-hour statutory limit for kindergarteners in EC 46111.**

Therefore, the department recommends approval on the condition that the district maintain increased instructional time at Tipton Elementary School for a period of two years to 48,530 minutes per year (40,465 plus the 8,065 minutes short) for a period of two years beginning in 2002-2003 and continuing through 2004-2005, and report the increase in its yearly audits.

Authority for the waiver: 46206

Bargaining unit(s) consulted on: 08/14/00, 04/24/01 and 11/04/02

Position of bargaining unit (choose only one):

Neutral

Support

Oppose

Name of bargaining unit representative: Debbie Gilbert, Iva Sousa, and Tamara Douglass

Local board approval date: 01/07/03

Effective dates of request: 08/13/03 to 06/03/05

Fiscal Analysis (as appropriate):

- The repayment amount for offering less than the 1986-87 minutes per *Education Code* Section 46201(c)(1)(2)(3), as required (\$99.57 penalty X 63 affected ADA) is \$6,272.91.
- The repayment amount for offering less than the baseline 1982-83 minutes per *Education Code* Section 46202(a), as required (4256 Revenue limit X 468 Total District ADA X 0.109304 Penalty Factor) is \$217,712.58
- Total fiscal penalties equals \$ 223,985.49.

Background Information:

Waiver request forms and supporting documents are attached.