



CALIFORNIA STATE BOARD OF EDUCATION

MAY 2004 AGENDA

Specific Waiver

SUBJECT Request by Arcata School District to waive <i>Education Code</i> (EC) Section 49550, the State Meal Mandate during the Summer School Session. Waiver Number: 69-2-2004	<input checked="" type="checkbox"/> Action
	<input type="checkbox"/> Consent

RECOMMENDATION

Approval Approval with conditions Denial

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Waivers of this type normally go to the State Board of Education Action Calendar, as there is a statutory basis for the denial recommendation.

SUMMARY OF KEY ISSUES

Education Code (EC) Section 49550 states that each needy child who attends a public school be provided a nutritionally adequate free or reduced-price meal every school day. The following district has requested a waiver of EC Section 49550 for the summer of 2004, and has certified their compliance with all required conditions necessary to obtain a waiver.

EC Section 49548 allows a waiver of EC Section 49550 during summer school if the district seeking the waiver has met *at least two* of the following four criteria:

Criteria One:

- The summer school session is of less than four hours duration and is completed by noon, allowing pupils to go home during the lunch period.

Criteria Two:

- Less than 10 percent of needy pupils attending the summer school session are at the schoolsite for more than three hours per day.

Criteria Three:

- A Summer Food Service Program for Children site is available within the school attendance area.

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Criteria Four:

- Serving meals during the summer school session would result in a financial loss to the school district, documented by the district, in an amount equal to one-third of the food service net cash resources or, if those cash resources are nonexistent, an amount equivalent to one month's operating costs.

In order for a district to be approved, it must meet two of the four required criteria at each site requesting a waiver. This district does not meet two of the four criteria at its requested site as outlined below:

- The session is three hours and 55 minutes long and is over at 12:00 PM. This condition is met.
- All children remain on-site for more than three hours;
- There is no Summer Food Service Program for children within the attendance area of the school site; and
- Although the district will suffer a financial loss, it is not equal to one-third of the cafeteria balance. In addition, the loss indicated was not supported.

On February 27, 2004, Arcata School District's waiver was received and reviewed by the California Department of Education (CDE). During the review process, it was noted that the district met only one of the four statutory criteria. CDE contacted Mr. Stephen Kelish, Superintendent for the Arcata School District and explained the waiver process and how each criteria was not being met. This phone conversation was followed up on several occasions with e-mail messages requesting a corrected waiver and the supporting documentation for each criteria the district met. Mr. Kelish was given a final deadline of March 25, 2004 to file a corrected waiver. NSD has not received any additional information from the district.

It is the school's contention that since they do not have attendance boundary lines and operate an open enrollment policy, the Summer Food Service Program (SFSP) identified to meet Criteria 3 should be approved. CDE staff disagrees, noting that last year the district indicated that the SFSP site in question was in the attendance area of a different school for which they were seeking a waiver (see Map A). Low-income children attending the summer school session would need to travel 1.2 miles and over (i.e. cross) Highway 101 to receive a nutritious meal (see Map B.) The distance and obstacles are sufficient to deny criteria 3.

Authority for the Waiver: *Education Code (EC) Section 49548.*

Bargaining unit(s) consulted on date(s): Not required for summer school waivers.

Position of bargaining unit(s) (choose only one): Not required for summer school waivers.

Neutral

Support

Oppose

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Name of bargaining unit(s)/representative(s): Not required for summer school waivers.

Local board approval date(s): 02/23/04

Period of request: 06/21/04 to 07/16/04

FISCAL ANALYSIS (AS APPROPRIATE)

For programs operating a summer school program in previous years, denial of the waiver will not impact the draw on Proposition 98 funds or local finances.

BACKGROUND INFORMATION

Action Item: Some documentation is available for web viewing. Waiver forms and other hard copy documents are available for viewing at the Waiver Office or State Board Office.