

Policy 1431: Waivers

Status: ADOPTED

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~~The Governing Board may request that the State Board of Education waive certain provisions of the Education Code, Title 5 regulations, or the federal law when such provisions prevent the district from offering its students the best possible educational program. The Superintendent Chief Learning Officer or designee, advisory committees, or site councils shall identify the need for the Board to submit waiver requests and shall provide the Board with the necessary information to analyze the need for the waiver.~~

~~The Board shall hold a properly noticed public hearing on all waiver requests. (Education Code 33050)~~

~~(cf. 9320 – Meetings and Notices)~~

~~The Board shall include the exclusive employee representative in the development of the waiver.~~

~~(cf. 4140/4240/4340 – Bargaining Units)~~

~~If the waiver affects a program that requires the existence of a school site council, the school site council shall first approve the request.~~

~~(cf. 0420 – School Plans/Site Councils)~~

~~(cf. 0420.1 – School-Based Program Coordination)~~

~~(cf. 1220 – Citizen Advisory Committees)~~

~~For general waivers, the request to the State Board of Education shall include a statement as to whether the exclusive employee representative participated in the development of the waiver and the exclusive employee representative's position on the waiver. General waiver requests shall include a written summary of any objections to the request by the councils or advisory committees. (Education Code 33050)~~

The Governing Board recognizes that circumstances may arise in the operation of the district that require a waiver from state law or regulation. When it is in the interest of district students, the Board may request that the State Board of Education (SBE) waive any provision of state law or regulation which SBE has authority to waive pursuant to Education Code 33050.

Any waiver request to be submitted to SBE shall first be approved by the Board. The Superintendent Chief Learning Officer or designee shall ensure that each proposed waiver request includes all information necessary for the Board to analyze the need for the waiver and make an informed decision.

If the proposed waiver request affects a program that requires the existence of a school site council, the Superintendent Chief Learning Officer or designee shall obtain the school site council's

approval of the request before presenting it to the Board. As appropriate, other councils or advisory committees, including bilingual advisory committees, shall be provided adequate opportunity to review a proposed waiver request, and the request shall include a written summary of any objections to the request by the councils or advisory committees. (Education Code 33051)

In addition, the Superintendent Chief Learning Officer or designee shall consult with the exclusive representative of district employees in the development of the waiver request, and shall include in the request the exclusive representative's position regarding the waiver. (Education Code 33050, 33051)

A request for a waiver related to a regional occupational center or program operated by a joint powers agency shall be submitted as a joint waiver request with other participating school districts upon approval of a unanimous vote of the governing board of the joint powers agency. (Education Code 33050)

To receive public testimony on each proposal for a waiver request, the Board shall hold a properly noticed public hearing during a Board meeting. (Education Code 33050)

The notice, which shall state the time, date, location, and subject of the public hearing and invite public testimony, shall be printed in a newspaper of general circulation, posted at each school and three public places in the district, or published on the district's website.

If the district determines that a waiver is needed for more than one year, the Board shall reapply to SBE. When the Board has requested and received the same general waiver from SBE for two consecutive years, the Board does not subsequently need to reapply annually provided that the information contained on the request remains current, except that the district shall apply annually for the renewal of any waiver regarding teacher credentialing. (Education Code 33051)
