

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Specific Waiver

# California State Board of Education January 2021 Agenda Item #W-02

## Subject

## Request by Prepa Tec Los Angeles High charter school under the authority of the California *Education Code* Section 47612.6, to waive *Education Code* Section 47612.5, the audit penalty for offering insufficient instructional minutes during the 2018–19 school year.

## Waiver Number

* 2-6-2020

## Type of Action

Action, Consent

## Summary of the Issue(s)

The charter school above is requesting that the California State Board of Education (SBE) waive the instructional time requirement audit penalty. The charter school was short instructional minutes for the 2018–19 school year. Per *Education Code* (*EC*) Section 47612.6, the SBE may waive the fiscal penalties set forth in this article for a charter school that fails to maintain the prescribed minimum length of instruction, upon the condition that the school or schools in which the minutes were lost maintain minutes of instruction equal to those lost, in addition to the minimum amount required, for twice the number of years that it failed to maintain the required minimum length of time.

## Authority for Waiver

*EC* Section 47612.6

## Recommendation

* Approval: No
* Approval with conditions: Yes
* Denial: No

## The California Department of Education (CDE) recommends that the SBE approve the request by the charter school to waive the instructional time penalty for offering less than the required number of instructional minutes for the requested period shown in Attachment 1, as long as the conditions outlined in Attachment 1 are met by the charter school.

If the charter school should close voluntarily, or due to non-renewal, prior to meeting the conditions of the waiver, the charter school will be subject to the full audit penalty and CDE will take action to recover the penalty amount from the charter school.

## Summary of Key Issues

During an audit of instructional minutes and days for 2018–19, it was discovered that Prepa Tec Los Angeles High failed to offer the required 64,800 annual minutes in grades nine through eleven by 1,160 minutes. The school made a last-minute change to the bell schedule due to transportation issues and instructional minutes were not recalculated after the change to ensure the minimum number of required minutes were offered, resulting in a shortage of annual instructional minutes.

Prepa Tec Los Angeles High (PTLAH) would like to use school years 2021–22 and 2022–23 to make up the shortfall of the instructional minutes. PTLAH has submitted documentation showing the school will offer additional minutes for grades nine through eleven during the 2021–22 and 2022–23 school years to comply with the terms of the waiver.

**Demographic Information:**

Prepa Tec Los Angeles High has a student population of 330 and is located in an urban area in Los Angeles County.

## Summary of Previous State Board of Education Discussion and Action

The SBE has approved similar requests with conditions. *EC* Section 47612.6 authorizes waivers to be granted for fiscal penalties due to a shortfall in instructional time. A waiver may be granted upon the condition that the school, or schools, in which the minutes were lost, maintain minutes equal to those lost, in addition to the minimum amount required for twice the number of years that it failed to maintain the required minimum length of time.

## Fiscal Analysis (as appropriate)

The PTLAH 2018–19 instructional minute penalty amount of $58,561 is calculated as follows (some differences due to rounding):

* The average daily attendance (ADA) of 265.59 for students in grades nine through eleven multiplied by the funding rate of $12,318.04 (value per ADA rate) is equal to the charter’s Local Control Funding Formula (LCFF) apportionment of $3,271,548.
* A shortfall of 1,160 instructional minutes for the affected grade levels divided by the 64,800-minute requirement is equal to 1.79 percent of minutes not offered.
* The affected LCFF apportionment of $3,271,548 multiplied by the percentage of minutes not offered is equal to the instructional minute penalty amount of $58,561.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Prepa Tec Los Angeles High Specific Waiver Request 2-6-2020 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 47612.5

| **Waiver Number** | **Charter** | **Period of Request** | **District’s Request** | **CDE Recommended Action** | **Bargaining Unit Representatives Consulted, Date, and Position** | **Local Board and Public Hearing Approval** | **Penalty Without Waiver** | **Previous Waivers** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 2-6-2020 | Prepa Tec Los Angeles High | **Requested:**  August 20, 2018, to June 14, 2019  **Recommended:**  July 1, 2018, to June 30, 2019 | Charter requests waiving *EC* Section 47612.5 to avoid the audit penalty in exchange for offering increased instructional minutes in 2021–22 and 2022–23, consistent with *EC* Section 47612.6. | **Approval** of waiver, consistent with *EC* Section 47612.6 with the following conditions:  (1) Charter maintains increased instructional minutes for grades nine through eleven at Prepa Tec Los Angeles High of at least the amount required by law plus 1,160 minutes, for a period of two years beginning in 2021–22 through 2022–23, and (2) Charter reports the increased annual instructional minutes offered in in its annual audit report. | **Not Applicable** | Local Board Approval  June 9, 2020 | $58,561 | None |

Created by California Department of Education

November 2020

# Attachment 2: Prepa Tec Los Angeles High Specific Waiver Request 2-6-2020

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 1976992

Waiver Number: 2-6-2020

Active Year: 2020

Date In: 6/11/2020 8:35:16 AM

Local Education Agency: Prepa Tec Los Angeles High

Address: 4210 East Gage St.

Bell, CA 90201-1231

Start: 8/20/2018

End: 6/14/2019

Waiver Renewal: No

Waiver Topic: Instructional Time Requirement Audit Penalty

Ed Code Title: Charter - Minimum Instructional Time

Ed Code Section: 47612.5(c)

Ed Code Authority: 47612.6(a)

Ed Code or *CCR* to Waive: *Education Code* Section 47612.547612.5.

(a) Notwithstanding any other provision of law and as a condition of apportionment, a charter school shall do all of the following:

(1) For each fiscal year, offer, at a minimum, the following number of minutes of instruction:

(A) To pupils in kindergarten, 36,000 minutes.

(B) To pupils in grades 1 to 3, inclusive, 50,400 minutes.

(C) To pupils in grades 4 to 8, inclusive, 54,000 minutes.

(D) To pupils in grades 9 to 12, inclusive, 64,800 minutes.

Outcome Rationale: Pursuant to the provisions of subdivision (a)(1) of *Education Code* Section 47612.5, the minimum instructional minutes offered for grades 9 through 12 should be 64,800. During our testing we calculated that the School offered 63,640 of instructional minutes for the year for grades 9 through 11 which are short by 1,160 minutes per grade level.Non-compliance with the instructional minute requirements for grades 9-11. The School made last minute changes to the bell schedule due to transportation issues and did not recalculate the instructional minimum was met.

Student Population: 330

City Type: Urban

Local Board Approval Date: 6/9/2020

Audit Penalty Yes or No: Yes

Categorical Program Monitoring: No

Submitted by: Ms. Linda Vargas

Position: Data and Assessment

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