

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education January 2021 AgendaItem #W-05

## Subject

Request by **Belridge Elementary School District** to waive portions of California *Education Code* sections 35780 and 35782, which will allow that district to lapse.

## Waiver Number

4-9-2020

## Type of Action

Action

## Summary of the Issue(s)

The Belridge Elementary School District (ESD), which operates under the jurisdiction of the Kern County Superintendent of Schools (County Superintendent), has been deficit spending for years. The district is unable to continue expenditure reductions without jeopardizing the education and safety of students—both the County Superintendent and the Belridge ESD believe the only fiscal alternative for the district is dissolution and annexation to an adjacent district. Pursuant to *Education Code* (*EC*) Section 35780, an elementary school district is required to lapse if that district’s average daily attendance (ADA) in first through eighth grade falls below six. Belridge ESD does not fall below this lapsation threshold (current enrollment is 35) and is requesting that the SBE waive the threshold. Approval of the waiver request will allow the Belridge ESD to lapse regardless of district enrollment. If the California State Board of Education (SBE) approves the waiver request, the Belridge ESD will lapse into an adjacent district for the 2021–22 school year.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

## Summary of Key Issues

*EC* Section 35780 requires each county committee on school district organization (county committee) to lapse an elementary school district if that district’s ADA in first through eighth grade falls below six. Under this requirement, the county committee must dissolve the district and annex it to one or more adjacent school districts.

The Belridge ESD has been under financial stress for a number of years. The district reported a negative certification of its fiscal status at the first and second interim reporting periods for 2019–20 and the County Superintendent concurred with those certifications. The negative certification means that the district will not meet its financial obligations for the current or the two subsequent fiscal years.[[1]](#footnote-1) The CDE has been tracking the fiscal status of the district due to the negative certifications, and concurs with the County Superintendent’s determination that the district is facing fiscal insolvency.

Both the Belridge ESD and the County Superintendent agree that expenditures cannot be reduced below current levels without jeopardizing student learning and safety—and further agree that the only fiscal remedy available is to dissolve the Belridge ESD and annex its territory to an adjacent school district.

Furthermore, the district has great difficulty attracting residents from the community to serve on its governing board. Currently, all members of the district governing board are Kern County Board of Education (County Board) members because a sufficient number of Belridge ESD community members have not filed for governing board elections and have not responded to requests for appointment to vacancies on the board.[[2]](#footnote-2) County Board members have been the majority on the three-member Belridge ESD governing board for at least the past decade.[[3]](#footnote-3) Over these past 10 years, only one Belridge ESD community member has served on the board (for the 2012–2016 term)—for the remainder of those years, only County Board members have been on the Belridge ESD governing board.

Current Belridge ESD enrollment is 35, which is above the *EC* Section 35780 level triggering a lapsation. SBE approval of the waiver request will remove this enrollment condition for lapsation—thus, requiring the Kern County Committee to lapse the Belridge ESD regardless of district enrollment. After the County Committee lapses the district, it is required to annex the Belridge ESD territory to an adjacent district.

There are four elementary school districts adjacent to the Belridge ESD. At the present time, there exists no local agreement regarding which of these districts will annex that district’s territory should it lapse.[[4]](#footnote-4) If the SBE approves the Belridge ESD waiver request, the County Committee will consider the County Superintendent’s fiscal analyses when making its decision regarding which district(s) will annex the Belridge ESD.

In addition to fiscal considerations, the County Committee also may consider other circumstances including current enrollment and other conditions of the potential recipient districts, as well as the educational needs of Belridge ESD students.

The CDE emphasizes that it is not the responsibility of the SBE to determine which district would annex the territory of a lapsed Belridge ESD. By approving this waiver, the SBE only would create a circumstance under which the County Committee would be required to exercise its statutory authority to lapse the Belridge ESD and order that district’s territory to be “annexed to one or more adjoining districts as seems to the county committee to be in the best interest of the adjoining districts and the residents of the lapsed district.” (*EC* Section 35783)

The Belridge ESD also requests that the SBE waive the portion of *EC* Section 35782 that provides the local timeline for County Committee action to lapse a district. The purpose of this statutory timeline is to ensure the County Committee has the most current ADA data (Second Principal Apportionment) before initiating the lapsation process. The timeline is unnecessary since lapsation of the Belridge ESD will not be dependent upon the district’s ADA level if the waiver request is approved. Additionally, waiver of the timeline will provide the County Committee and affected school districts greater flexibility in the lapsation process.

The CDE recommends that the SBE approve the request by the Belridge ESD to waive portions of *EC* sections 35780 and 35782 regarding district lapsation. The CDE has determined that none of the grounds specified in *EC* Section 33051(a), which authorize denial of a waiver, exist.

**Demographic Information:** The Belridge ESD has a student population of 35 and is located in a rural area of Kern County.

**Because this is a general waiver, if the State Board of Education decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a), available at** <http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051>.

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

The SBE has approved similar waivers—most recently for lapsation of the Elkins ESD (Tehama County) at the January 2020 SBE meeting.

## Fiscal Analysis (as appropriate)

Approval of the waiver request will not have negative fiscal effects on any local or state agency.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Belridge Elementary School District General Waiver Request 4-9-2020 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* sections 35780 and 35782

| **Waiver Number** | **District** | **Period of Request** | **Bargaining Unit Representatives Consulted** | **Public Hearing and Board Date** | **Advisory Committee Position** |
| --- | --- | --- | --- | --- | --- |
| 4-9-2020 | Belridge Elementary School District | **Requested:**January 1, 2021, to July 1, 2021**Recommended:**January 1, 2021, to July 1, 2021 | Belridge Certificated/ Administrative Unit,Tammy Reynolds, Superintendent5/13/2020**Support**Belridge Bilingual Classified Unit,Lilia Gravacio, Bilingual Instructional Aide5/13/2020**Support**Belridge Classified Unit,Jesse Granados, Transportation5/13/2020**Support** | June 13, 2020 | Staff/Parent Advisory GroupJune 13, 2020**No objections** |

Created by California Department of Education
October 2020

# Attachment 2Belridge Elementary School District General Waiver Request 4-9-2020

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1563347

Waiver Number: 4-9-2020

Active Year: 2020

Date In: 9/18/2020 11:45:10 AM

Local Education Agency: Belridge Elementary

Address: 19447 Wagon Wheel Rd.

McKittrick, CA 93251

Start: 1/1/2021

End: 7/1/2021

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date: 9/29/2020

Waiver Topic: School District Reorganization

Ed Code Title: Lapsation of a Small District

Ed Code Section: 35780, 35782.

Ed Code Authority: 33050 et. seq.

*Education Code* or *CCR* to Waive: § 35780(a). A school district that has been organized for more than three years shall be lapsed as provided in this article**[** *if the number of registered electors in the school district is less than six or if the average daily attendance of pupils in the school or schools maintained by the school district is less than six in grades 1 through 8 or is less than 11 in grades 9 through 12***]**, except that for any unified district that has established and continues to operate at least one senior high school, the board of supervisors shall defer the lapsation of the school district for one year upon a written request of the governing board of the school district and written concurrence of the county committee. The board of supervisors shall make no more than three such deferments.

§ 35782**. [***Within 45 days before the close of each school year* **]**the county committee shall conduct a public hearing on the issues specified in Section 35780. Notice of the public hearing shall be given at least 10 days in advance of the hearing to each member of the governing board of the lapsed district immediately before its lapsation, to each of the governing boards that adjoin the lapsed district, and to the high school district of which the lapsed elementary district is a component.

Outcome Rationale: The Belridge School District (BSD), which is located in rural western Kern County, has been deficit spending for years. The district is unable to continue expenditure reductions without jeopardizing the education and safety of students. Both the County Superintendent and the BSD Board of Trustees believe the only efficient fiscal alternative for the district is lapsation into an adjacent district or districts. BSD staff and parents have been consulted and have approved BSD moving forward with an application for waiver of certain provisions of the Education Code (EC). Pursuant to EC Section 35780, an elementary school district is required to lapse if that district's average daily attendance (ADA) in first through eighth grade falls below six. BSD does not fall below this lapsation threshold (current enrollment is thirty-five) and is requesting that the California State Board of Education (SBE) waive the threshold. Additionally, BSD is requesting that approval of the lapsation by the County Committee on School District Organization, if granted, become effective July 1, 2021. Approval of this waiver request by the SBE would allow BSD to lapse prior to the start of the 2021-22 school year and greatly facilitate student, parent, staff, and the receiving district’(s’) planning purposes.

Student Population: 35

City Type: Rural

Public Hearing Date: 9/8/2020

Public Hearing Advertised: Published in Taft Midway Driller Newspaper, posted in English and Spanish on the District’s website and in three public places in the District.

Local Board Approval Date: 9/8/2020

Community Council Reviewed By: Meeting held with staff and parents.

Community Council Reviewed Date: 5/13/2020

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Mr. Gary Bray

Position: Management Consultant Agent

E-mail: gabray@kern.org

Telephone: 661-636-4792

Fax:

Bargaining Unit Date: 05/13/2020

Name: Belridge Bilingual Classified Unit

Representative: Lilia Gravacio

Title: Bilingual Instructional Aide

Phone: 661-762-7381

Position: Support

Comments:

Bargaining Unit Date: 05/13/2020

Name: Belridge Certificated/Administrative Unit

Representative: Tammy Reynolds

Title: Superintendent

Phone: 661-762-7381

Position: Support

Comments:

Bargaining Unit Date: 05/13/2020

Name: Belridge Classified Unit

Representative: Jesse Granados

Title: Transportation

Phone: 661-762-7381

Position: Support

Comments:

1. The County Superintendent, as a result of the negative certifications, has appointed a fiscal advisor to the Belridge ESD pursuant to *EC* Section 42127.6. [↑](#footnote-ref-1)
2. *EC* Section 5094 provides that the president of the County Board may appoint County Board members to the governing board of any school district, which is under the jurisdiction of that County Board, when a majority of the offices of that district’s governing board are vacant. [↑](#footnote-ref-2)
3. During this past decade, Belridge ESD student enrollment has ranged from 29 to 40 while the number of registered voters in the district has ranged from 15 to 28. [↑](#footnote-ref-3)
4. The SBE has approved similar waivers for 12 small elementary school districts over the past 10 years—in each instance, a local agreement regarding lapsation and annexation was in place prior to SBE consideration of the waiver request. [↑](#footnote-ref-4)