

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of EducationJuly 2022 AgendaItem #W-16

## Subject

Request by **three local education agencies** to waive California *Education Code (EC)* sections 15102, 15268, 15106, and 15270(a) to allow the districts to exceed their bonded indebtedness limits. Total bonded indebtedness may not exceed 1.25 percent of the taxable assessed valuation of property for elementary or high school districts and 2.50 percent of the taxable assessed valuation of property for unified school districts. Depending on the type of bond, a tax rate levy limit of $30 per $100,000 of assessed value for elementary or high school districts and $60 per $100,000 of assessed value for unified school districts may also apply.

## Waiver Numbers

* Cascade Union Elementary School District 9-4-2022
* Guadalupe Union Elementary School District 7-4-2022
* McFarland Unified School District 5-4-2022

## Type of Action

Action, Consent

## Summary of the Issues

The Cascade Union Elementary School District (Cascade ESD) is requesting to waive portions of *EC* sections 15102 and 15268, which will allow the district to exceed its statutory bonding capacity limit at a rate of up to, but not in excess of, 1.47 percent.

The Guadalupe Union Elementary School District (Guadalupe ESD) is requesting to waive portions of *EC* sections 15102 and 15268, which will allow the district to exceed its statutory bonding capacity limit at a rate of up to, but not in excess of, 1.65 percent.

The McFarland Unified School District (McFarland USD) is requesting to waive portions of *EC* sections 15106 and 15270(a), which will allow the district to exceed its statutory bonding capacity limit at a rate of up to, but not in excess of, 3.38 percent.

## Authority for Waiver

California *EC* Section 33050

## Recommendation

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

The California Department of Education (CDE) recommends that the bonded indebtedness limit be waived for each of the districts with the following conditions:
(1) the periods of request do not exceed the recommended period on Attachment 1; (2) the total bonded indebtedness does not exceed the recommended new maximum shown on Attachment 1; (3) the districts do not exceed the statutory tax rate; (4) the waivers are limited to the sale of bonds approved by the voters on the measures noted on Attachment 1; and (5) the districts comply with the statutory requirements of Assembly Bill 182 related to school bonds, which became effective on January 1, 2014.

## Summary of Key Issues

The California *EC* provides limits related to a district’s total bonded indebtedness. *EC* sections 15102 and 15268 limit an elementary or high school district’s total general obligation (G.O.) bond indebtedness to 1.25 percent and *EC* sections 15106 and 15270(a) limit a unified school district’s total G.O. bond indebtedness to 2.50 percent.

To raise funds to build or renovate school facilities, with voter authorization, school districts may issue G.O. bonds. Under Proposition 46, school districts are allowed to increase the property tax rate above one percent for the period necessary to pay off new G.O. bonds if the following conditions are met:

* Two-thirds of those voting in a local election have approved the issuance of the bonds.
* The money raised through the sale of the bonds is exclusively used to purchase or improve land and buildings.

In November 2000, districts were given another option for authorizing and issuing bonds when California voters passed Proposition 39, which allows school bonds to be approved with a 55 percent majority vote if the district abides by several administrative requirements, such as establishing an independent Citizens’ Oversight Committee to oversee the use of the funds. Once G.O. bonds are authorized, school districts issue the bonds in increments as needed to fund their facility projects. When the voters authorize a local G.O. bond, they are simultaneously authorizing a property tax increase to pay the principal and interest on the bond. For Proposition 39 bonds, *EC* Section 15268 limits the tax rate levy authorized in each election to $30 per $100,000 of taxable property for elementary or high school districts and *EC* Section 15270(a) limits the tax rate levy authorized in each election to $60 per $100,000 of taxable property for unified school districts.

Without a waiver, school districts that are close to their bonding capacity must decide either to issue fewer bonds, delay the issuance of bonds until their assessed valuation increases, or obtain other more expensive non-bond financing to complete their projects, the costs of which could be paid from district general funds. Therefore, the CDE has historically recommended that the State Board of Education (SBE) approve related waiver requests with the condition that the statutory tax levies are not exceeded at the time the bonds are issued.

AB 182 (Chapter 477, Statutes of 2013) has established parameters for the issuance of local education bonds that allow for the compounding of interest, including capital appreciation bonds (CABs). AB 182 requires a district governing board to do the following:

* Before the bond sale, adopt a resolution at a public meeting that includes specific criteria, including being publicly noticed on at least two consecutive meeting agendas.
* Be presented with an agenda item at a public board meeting that provides a financial analysis of the overall costs of the bonds, a comparison to current interest bonds, and reasons why the compounding interest bonds are being recommended.
* After the bond sale, present actual cost information at the next scheduled public meeting and submit the cost information of the sale to the California Debt and Investment Advisory Commission.

Cascade Union ESD

Cascade Union ESD wishes to proceed with its proposed cumulative issuance of $3.099 million which represents the remaining portion authorized by two bond measures approved by the district’s voters in November of 2008 and November of 2016. Measure C, the district’s 2008 bond measure, has a remaining limit of $1.199 million while Measure G has a remaining limit of $1.9 million. The issuance will be used to allow the district to complete its Meadow Lane multi-use facility and other facility projects. The issuance of $3.099 million will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 1.47 percent, as confirmed by the district.

### Guadalupe Union ESD

Guadalupe Union ESD wishes to proceed with its proposed cumulative issuance of $11.45 million, which represents the two bond measures approved by the district’s voters on the November 2016 ballot, Measure M and Measure N, for a respective $5.8 million and $5.65 million authorization for the upgrading and modernization of Mary Buren and Kermit McKenzie Schools, construction of a new gym and pay-down of existing Certificates of Participation. The issuance of $11.45 million will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 1.65 percent, as confirmed by the district.

### McFarland USD

McFarland USD wishes to proceed with its proposed issuance of $20 million from Measure B, which was approved by more than 58% of the district’s voters in March 2020. The issuance will be used to modernize/construct classrooms, restrooms, and school facilities to improve the quality of education; repair and replace roofs; construct a multi-purpose room/cafeteria at McFarland High; and to repair, construct, and acquire classrooms, sites, and equipment. Current bonding capacity does not allow the district to issue the necessary $20 million in general obligation bonds to finance the much-needed projects. Further, increasing interest rates and construction costs make it beneficial to sell bonds now instead of waiting. This will complete the Measure B authorization. The issuance of $20 million will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 3.38 percent, as confirmed by the district.

### Demographic Information

Cascade Union ESD has a student population of 1,054 and is located in Shasta County.

Guadalupe Union ESD has a student population of 1,270 and is located in northwest Santa Barbara County.

McFarland USD has a student population of 3,445 and is located in Kern County.

**Because these are general waivers, if the SBE decides to deny the waivers, it must cite one of the seven reasons in *EC* Section 33051(a), available on the California Legislation Information Web page at** <https://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 all bond limit waiver requests limited to the sale of already authorized bonds and at the tax rate levy stated on the bond measure.

## Fiscal Analysis

Approval of the waivers would allow the districts to accelerate their issuance of voter-approved bonds.

## Attachments

* **Attachment 1:** Summary Table (3 pages)
* **Attachment 2:** Cascade Union ESD General Waiver Request 9-4-2022 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Guadalupe Union ESD General Waiver Request 7-4-2022 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 4:** McFarland USD General Waiver Request 5-4-2022 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

 California *Education Code* (*EC*) Section 15102 et seq.

| **Waiver Number** | **District** | **Period of Request** | **District’s Request** | **CDE Recommended** | **Bargaining Unit Representatives** | **Local Board, Public Hearing, and Advisory Committee Approval** |
| --- | --- | --- | --- | --- | --- | --- |
| 9-4-2022 | Cascade Union Elementary School District | **Requested:**August 1, 2022 to August 1, 2030**Recommended:** August 1, 2022 to August 1, 2030 | **Requested:**Debt Limit: 1.47%**Recommended:**Debt Limit: 1.47% | Debt Limit: 1.47%Limited to sale of bonds applicable to Measure C, approved by voters in the November 2008 election, and Measure G, approved by the voters in the November 2016 election.Tax Rate $30 per $100,000 (authorization approved under Proposition 39) | Anderson Cascade Teachers AssociationKelli Carter, Executive Board Secretary3/22/2022**Support**California School Employees AssociationJoan Nevarez, Labor Relations Representative4/4/2022**Support**TeamstersJeannette Dupont,President4/5/2022**Support** | Local Board Approval Date: 4/18/2022Public Hearing Date: 4/18/2022Public Hearing Advertised: Public hearing notice posted at the District Office and various school sites on April 6, 2022Bond Oversight Committee 3/30/2022**No Objections** |

| **Waiver Number** | **District** | **Period of Request** | **District’s Request** | **CDE Recommended** | **Bargaining Unit Representatives** | **Local Board, Public Hearing, and Advisory Committee Approval** |
| --- | --- | --- | --- | --- | --- | --- |
| 7-4-2022 | Guadalupe Union Elementary School District | **Requested:**August 1, 2022 to August 1, 2037**Recommended:** August 1, 2022 to August 1, 2037 | **Requested:**Debt Limit: 1.65%**Recommended:**Debt Limit: 1.65% | Debt Limit: 1.65%Limited to sale of bonds applicable to Measure M and Measure N, both approved by voters in November 2016Tax Rate $30 per $100,000 (authorization approved under Proposition 39) | CSEAJanet Jauregui,President2/23/2022**Support**Guadalupe Teachers Association Kellie Brill,President2/23/2022**Support** | Local Board Approval Date: 3/9/2022Public Hearing Date: 3/9/2022Public Hearing Advertised: District website, two school websites on 2/18/22 and twice (2/23/22 and 3/2/22) in the Santa Maria TimesCitizens’ Oversight Committee, two School Site Councils and an ELAC2/17/2022**No Objections** |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Waiver Number** | **District** | **Period of Request** | **District’s Request** | **CDE Recommended** | **Bargaining Unit Representatives** | **Local Board, Public Hearing, and Advisory Committee Approval** |
| 5-4-2022 | McFarland Unified School District | **Requested:**July 1, 2022 to August 1, 2032**Recommended:** July 1, 2022 to August 1, 2032 | **Requested:**Debt Limit: 3.38%**Recommended:**Debt Limit: 3.38% | Debt Limit 3.38%Limited to sale of bonds applicable to Measure B, approved by voters in the March 2020 electionTax Rate $60 per $100,000 (authorization approved under Proposition 39) | McFarland California School Employees AssociationJavier Holguin, President4/12/2022**Support**McFarland Teachers Association Kimberly Whealy-Kennemer, President4/12/2022**Support** | Local Board Approval Date: 3/8/2022Public Hearing Date: 3/8/2022Public Hearing Advertised: District website, emails, and posting at school sitesCitizens’ Bond Oversight Committee3/31/2022**No Objections** |

Created by the California Department of Education

May 2022

# Attachment 2: **Cascade Union Elementary School District General Waiver Request 9-4-2022**

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 4569914

Waiver Number: 9-4-2022

Active Year: 2022

Date In: 4/19/2022 4:53:17 PM

Local Education Agency: Cascade Union Elementary

Address: 1645 West Mill St.

Anderson, CA 94596

Start: 8/1/2022

End: 8/1/2030

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: School Construction Bonds

Ed Code Title: Bond Indebtedness Limit - Non-Unified

Ed Code Section: 15102

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: *EC* 15102: The total amount of bonds issued pursuant to this chapter and Chapter 1.5 (commencing with Section 15264) shall not exceed [1.25] percent of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.

*EC* 15268. The total amount of bonds issued, including bonds issued pursuant to Chapter 1 (commencing with Section 15100), shall not exceed [1.25] percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located. The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred by a school district pursuant to this chapter, at a single election, would not exceed thirty dollars ($30) per year per one hundred thousand dollars ($100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with Article XIII A of the California Constitution.

Outcome Rationale: On November 4, 2008, Cascade Union School District voters approved Measure C for a $12.4 million bond authorization and on November 8, 2016, voters approved Measure G for a $8.9 million bond authorization, both for the upgrading and modernization of outdated school facilities.

To be able to access the remaining 2008 and 2016 Authorizations, the District is requesting to waive a portion of California *Education Code*s 15102 and 15268 to a bonded indebtedness limit of 1.47%. This limit includes $1,199,208 from the District’s 2008 Measure C Authorization and $1,900,000 from their 2016 Measure G Authorization. The District expects the fifth and final issuance from Measure C and the third and final issuance from Measure G to be repaid over 25 to 30 years using only current interest bonds. The District does not expect to issue bonds that would cause the tax rate for either authorization to increase above the legal requirement of $30 per $100,000 of assessed valuation. The increase in bonding capacity to 1.47% and the issuances described would allow the District to complete its Meadow Lane multi-use facility and other facility projects.

Student Population: 15211

City Type: Small

Public Hearing Date: 4/18/2022

Public Hearing Advertised: Public hearing notice posted at the District Office and various school sites on April 6, 2022

Local Board Approval Date: 4/18/2022

Community Council Reviewed By: Bond Oversight Committee

Community Council Reviewed Date: 3/30/2022

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Ms. Janice Peters

Position: Municipal Advisor

E-mail: janice@isomadvisors.com

Telephone: 925-478-7450

Fax:

Bargaining Unit Date: 03/22/2022

Name: Anderson Cascade Teachers Association

Representative: Kelli Carter

Title: Executive Board Secretary Bargaining Committee

Phone: kelli.carter@cuesd.com

Position: Support

Comments:

Bargaining Unit Date: 04/04/2022

Name: California School Employees Association

Representative: Joan Nevarez

Title: Labor Relations Representative

Phone: jnevarez@csea.com

Position: Support

Comments:

Bargaining Unit Date: 04/05/2002

Name: Teamsters

Representative: Jeannette Dupont

Title: President

Phone: jeannette.dupont@cuesd.com

Position: Support

Comments:

# Attachment 3: **Guadalupe Union Elementary School District General Waiver Request 7-4-2022**

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 4269203

Waiver Number: 7-4-2022

Active Year: 2022

Date In: 4/18/2022 8:04:01 PM

Local Education Agency: Guadalupe Union Elementary

Address: 4465 Ninth St.

Guadalupe, CA 94596

Start: 8/1/2022

End: 8/1/2037

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: School Construction Bonds

Ed Code Title: Bond Indebtedness Limit - Non-Unified

Ed Code Section: 15102

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: *EC* 15102: The total amount of bonds issued pursuant to this chapter and Chapter 1.5 (commencing with Section 15264) shall not exceed [1.25] percent of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.

*EC* 15268. The total amount of bonds issued, including bonds issued pursuant to Chapter 1 (commencing with Section 15100), shall not exceed [1.25] percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located. The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred by a school district pursuant to this chapter, at a single election, would not exceed thirty dollars ($30) per year per one hundred thousand dollars ($100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with Article XIII A of the California Constitution.

Outcome Rationale: On November 8, 2016, Guadalupe Union School District voters approved Measure M and Measure N, for a respective $5.80 million and $5.65 million ($11.45 million in total) bond authorization for the upgrading and modernization of Mary Buren and Kermit McKenzie Schools, construction of a new gym and pay down of existing Certificates of Participation.

To be able to access the remaining 2016 Authorizations, the District is requesting to waive a portion of California *Education Code*s 15102 and 15268 to a bonded indebtedness limit of 1.65%. This limit includes a combined $4,282,912 in authorized but unissued bonds from the Election of 2016 Measures M & Measure N authorizations. The District expects the third and final issuance from Measure M and the second and third (final) issuance from Measure N to be repaid over 30 years using only current interest bonds. The District does not expect to issue bonds that would cause the tax rate to increase above the legal requirement of $30 per $100,000 of assessed valuation per authorization. The increase in bonding capacity to 1.65% and the issuances described would allow the District to move ahead with its voter-supported facility improvements without delay as well as pay down Certificates of Participation.

Student Population: 7507

City Type: Small

Public Hearing Date: 3/9/2022

Public Hearing Advertised: Notice of the public hearing was posted on the District website, two school websites on 2/18/22 and twice (2/23/22 and 3/2/22) in the local newspaper, the Santa Maria Times

Local Board Approval Date: 3/9/2022

Community Council Reviewed By: Citizen's Oversight Committee, two School Site Councils and an ELAC

Community Council Reviewed Date: 2/17/2022

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Ms. Janice Peters

Position: Municipal Advisor

E-mail: janice@isomadvisors.com

Telephone: 415-515-7229

Fax:

Bargaining Unit Date: 02/23/2022

Name: CSEA

Representative: J Jauregui

Title: President

Phone: 805-343-2114

Position: Support

Comments:

Bargaining Unit Date: 02/23/2022

Name: Guadalupe Teachers Association

Representative: K Brill

Title: President

Phone: 805-343-2114

Position: Support

Comments:

# Attachment 4: McFarland Unified School District General Waiver Request 5-4-2022

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1573908

Waiver Number: 5-4-2022

Active Year: 2022

Date In: 4/15/2022 11:27:13 AM

Local Education Agency: McFarland Unified

Address: 601 Second Street

McFarland, CA 94595

Start: 7/1/2022

End: 8/1/2032

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: School Construction Bonds

Ed Code Title: Bond Indebtedness Limit - Unified S.D.

Ed Code Section: 15106

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: A unified school district or community college district may issue bonds that, in aggregation with bonds issued pursuant to Section 15270, [shall not exceed 2.5 percent of the taxable property of the school district] or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.

Outcome Rationale: The District anticipates issuing approximately $20.0 million of general obligation bonds over the next two years beginning in August 2022; the bonds will be issued pursuant to the District’s 2020 Election (Measure B) in which more than 55% of the District’s voters authorized the sale of not to exceed $30.0 million of GO Bonds. Measure B was authorized pursuant to Prop 39 and the expected maximum tax rate is $54.00 per $100,000 of assessed valuation, less than the allowable $60/$100k AV. Proceeds will be used to modernize classrooms, restrooms and facilities; repair/replace roofs, build a multi-purpose room and cafeteria at McFarland High, and repair and acquire classrooms and equipment. Current bonding capacity does not allow the District to issue the necessary $20 million in general obligation bonds to finance the much-needed projects. Further, increasing interest rates and construction costs make it beneficial to sell bonds now instead of waiting. This will complete the Measure B authorization.

Student Population: 3451

City Type: Rural

Public Hearing Date: 3/8/2022

Public Hearing Advertised: public notified through District website, emails, and posting at school sites

Local Board Approval Date: 3/8/2022

Community Council Reviewed By: district school board, citizens' oversight committee, parent groups, and labor groups

Community Council Reviewed Date: 3/8/2022

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Mr. jeff pickett

Position: Principal, Financial Advisor

E-mail: jeff@isomadvisors.com

Telephone: 925-478-7450

Fax:

Bargaining Unit Date: 04/12/2022

Name: McFarland California School Employees Association

Representative: Javier Holguin

Title: President

Phone: 661-792-3081

Position: Support

Comments:

Bargaining Unit Date: 04/12/2022

Name: McFarland Teachers Association

Representative: Kimberly Whealy-Kennemer

Title: President

Phone: 661-792-3081

Position: Support

Comments: