

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education November 2024 Agenda Item #W-02

## Subject

Request by the **Visalia Unified** **School District** to retroactively waive portions of California *Education Code* Section 48663(a), relating to community day school minimum instructional minutes.

## Waiver Number

18-4-2024

## Type of Action

Action, Consent

## Summary of the Issue(s)

Request by the Visalia Unified School District (USD) for a waiver of portions of California *Education Code* (*EC*) Section 48663(a), relating to the Creekside Community Day School’s (CDS’) minimum instructional minutes, for purposes of implementing collaborative professional learning communities (PLCs).

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

The California Department of Education (CDE) recommends approval of this waiver with the following conditions:

* The Creekside CDS operated by the Visalia USD will continue to increase the instructional minutes provided to students above the statutory 360 minute minimum to 378 minutes on all non-PLC days (168 days), so that there is no net loss of instructional learning opportunity in any two month attendance period, and a net annual gain of 736 instructional minutes, as is certified by the district to have been done throughout the entire 2023–24 school year.
* The Creekside CDS operated by the Visalia USD will continue to reduce the instructional minutes provided to students below the statutory minimum for purposes of implementing collaborative PLCs, to 318 minutes on regularly scheduled Late Start Mondays (24 days) and to 245 minutes on Late Start/Early Release Days (8 days), as is certified by the district to have been done throughout the entire 2023–24 school year.

## Summary of Key Issues

*EC* Section 48663(a) states that CDSs have a minimum instructional day of 360 minutes. The Visalia USD is requesting this waiver to be able to include the Creekside CDS teachers, administrator, and other school staff in regularly scheduled PLC discussions and districtwide professional development and planning. The district maintains that this will support consistency and better quality in instructional strategies. In accordance with the waiver, not only would the staff have more collaborative time, but the CDS students will also have a net gain of instructional minutes. The district states that this is extremely valuable for the Creekside CDS as students often arrive with significant challenges, as well as strengths which can be identified and utilized to address these challenges.

### Local Support

The Visalia USD local board voted unanimously in support of the waiver request. The Visalia Unified Teachers Association has taken a support position on the waiver through its president, Greg Price. The California School Employee Association has taken a support position on the waiver through its president, Crystal Lopez. The Creekside CDS School Site Council reviewed and approved the waiver request with no objections.

### Rationale for Retroactive Request

Visalia USD first implemented the 2023–24 schedule on August 1, 2023 for the 2023–24 and 2024–25 school years, in accordance with the conditions provided in this waiver that would have been imposed had the waiver been in place for this time period. This modified schedule was implemented by the school prior to learning that the modification schedule would require a waiver from the State Board of Education (SBE). After some delay caused by staff shortages, the district initiated the waiver application inquiry process. During this period, they consulted with the CDE regarding the waiver requirements and recommendations. Subsequently, they obtained necessary approvals from the School Site Council and gained support of the Certificated and Classified Collective Bargaining Units. However, while the teacher’s association was in approval of the waiver, they did not send a copy of their letter until two weeks following Visalia USD Governing Board Meeting, during which the Board approved the schedule on April 9, 2024. The district received the Certificated Bargaining Unit approval letter signed on April 23, 2024.

Visalia USD understands this is a retroactive request with respect to the 2023–24 academic year. However, given the district’s new leadership and the complexities of the waiver process, it has been a significant learning experience. Visalia USD firmly believes that the modified schedule, while authorized retroactively, prioritizes instructional time and enhances student outcomes through increased collaboration and professional development opportunities.

**Demographic Information:**

The Visalia USD has a student population of 27,511 students and is located in an urban setting in Tulare County. The Creekside CDS serves 29 students.

**Because this is a general waiver, if the SBE 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 previous waiver requests of the minimum instructional day in a CDS where the district agreed that, if instructional minutes were reduced, other days would be extended so that the total instructional minutes provided to students would equal or exceed the total as normally provided under statute.

## Fiscal Analysis (as appropriate)

There is no statewide fiscal impact of this waiver approval.

## Attachment(s)

* **Attachment 1:** Summary Table of Community Day School State Board of Education Waiver (1 page).
* **Attachment 2:** Visalia Unified School District General Waiver Request   
  18-4-2024 (3 pages). (Original Waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table of Community Day School State Board of Education Waiver

Portions of California *Education Code (EC)* Section 48663(a)

| WaiverNumber | District Name,Size of District, andLocal BoardApproval Date | Period of Request | If granted, this waiver will be "permanent"per *EC* Section 33051(b) | Bargaining Unit Name and Representative,Date of Action,and Position | Advisory Committee/ School Site Council Name,Date of Review,and Any Objections |
| --- | --- | --- | --- | --- | --- |
| 18-4-2024 | Visalia Unified School District  27,511 Students  Creekside Community Day School 29 Students  April 9, 2024  7-0 vote | **Requested:**  August 1, 2023  through  July 30, 2025  **Recommended:**  August 1, 2023  through  July 30, 2025 | No | Visalia Unified Teachers Association Greg Price, President April 23, 2024  **Support**  California School Employees Association, Chapter 83  Crystal Lopez, President  April 5, 2024  **Support** | Creekside Community Day School, School Site Council  February 28, 2024  **No Objections** |

Created by California Department of Education  
November 2024

# Attachment 2: Visalia Unified School District General Waiver Request 18-4-2024

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 5472256

Waiver Number: 18-4-2024

Active Year: 2024

Date In: 4/30/2024 3:39:50 PM

Local Education Agency: Visalia Unified

Address: 5000 West Cypress Ave.

Visalia, CA 93277

Start: 8/1/2023

End: 7/30/2025

Waiver Renewal: No

Waiver Topic: Community Day Schools (CDS)

Ed Code Title: Minimum School Day

Ed Code Section: 48663(a)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: *EC* 48663. [(a) The minimum school day in a community day school is 360 minutes of classroom instruction] provided by a certificated employee of the district reporting the attendance of the pupils for apportionment funding.

Outcome Rationale: Creekside Community Day School is asking for a retroactive waiver of the minimum day, or 360 instructional minutes required in the Community Day School setting to provide its students, staff, and teachers a bell schedule with the same late start Professional Learning Community (PLC) and early release professional learning time as other 7-12 grade comprehensive school sites within the District while still providing students with the same annual instructional minutes that would have been provided otherwise.

Furthermore, the average instructional minutes is at least 360 minutes every two attendance months. The bell schedules are included to show the late start Monday schedules that allows teacher to collaborate as a PLC as well as the 8 Monday early release days for teacher Professional Learning.

As part of this waiver process, Creekside has requested/received the following approvals:

* Creekside School Site Council approval (02/28/2024).
* School District California School Employees Association (CSEA) bargaining unit support (04/05/2024).
* Visalia Unified Teachers Association (VUTA) bargaining unit support (04/29/2024).
* Our Visalia Unified School District Board Approval (04/9/2024).

Student Population: 29

City Type: Urban

Public Hearing Date: 4/9/2024

Public Hearing Advertised: Advertised in the Visalia Times Delta on 04/07/2024 as well as posted at the District Office at 5000 W Cypress Ave.

Local Board Approval Date: 4/9/2024

Community Council Reviewed By: Creekside Community Day School, School Site Council reviewed and approved the waiver request.

Community Council Reviewed Date: 2/28/2024

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Nathan Hernandez

Position: Chief Business Officer

E-mail: [nhernandez@vusd.org](mailto:nhernandez@vusd.org)

Telephone: 559-804-1140

Fax: 559-730-7404

Bargaining Unit Date: 04/05/2024

Name: California School Employee Association

Representative: Crystal Lopez

Title: CSEA Chapter 83 President

Phone: 559-731-7296

Position: Support

Bargaining Unit Date: 04/23/2024

Name: Visalia Unified Teachers Association

Representative: Greg Price

Title: VUTA President

Phone: 559-799-5455

Position: Support