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File ID Number	12-1156
Introduction Date	May 9, 2012
Enactment Number	12-1272
Enactment Date	5-9-12



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Dr. Anthony Smith, Superintendent
Maria Santos, Deputy Superintendent

Board Meeting Date May 9, 2012

Subject **Adoption of Resolution 1112-0253, Requesting State Superintendent Of Public Instruction For Renewal of Alternative School of Choice Waiver of Education Codes Pertaining to Computing Average Daily Attendance (ADA).**

Action Requested Adoption of Resolution 1112-0253 – Request to the State Superintendent of Public Instruction for Renewal of Alternative School of Choice Waiver of Education Codes pertaining to Computing Average Daily Attendance (ADA).

Background
A one paragraph explanation of why the consultant's services are needed.

Gateway to College is a nationally recognized education model serving youth who have dropped out of high school. In June 2008, the District authorized the establishment of Gateway as an Alternative education high school to be operated on the Laney Campus. Students attending Gateway are concurrently enrolled in Laney and Oakland Unified School and from their first day earn credits toward a high school diploma and an Associate's Degree. Gateway's student body is largely comprised of foster youth, adjudicated youth, teen parents, and students recovering from homelessness or drug and alcohol abuse.

Discussion
One paragraph summary of the scope of work.

Gateway to College at Laney Alternative High School is a school of high expectations and equally high levels of community support with the goal that vulnerable youth receive a second chance to re-engage in education in a meaningful way and create better lives for themselves.

The District will seek and obtain all necessary renewal waivers from the California Department of Education in order to fully continue to support Gateway. Under the Waiver Authority of the Education Code Section 58509, the particular Education Code or the California Code of Regulations Section(s) or portion thereof to be waived is: Computing Average Daily Attendance.

This is a request to again seek waiver of the following sections of the California education Code related to computation of average daily attendance for high schools.



- Education Code §41601 – Reports of average daily attendance
- Education Code §46202 – Reduction of districts apportionment
- Education Code §46300 – Method of computing average daily attendance
- Education Code §46305 – Reports of active enrollment
- Education Code §48802 – Allowance and Appointments for concurrently enrolled students

The aforementioned sections provide the process and unit of measurement for student accounting procedures used in apportioning and distributing state ADA funds for education. In particular, section 46300 provides, in part, that in computing average daily attendance, pupils should be under the immediate supervision and control of an employee of the District who possesses a valid certification document.

Under the California Department of Education regulation and the Alternative School of Choice Waiver Request for (CDE form AEW-1 (Rev 3/10)), no public hearing is required if the renewal waiver is not controversial. In addition, meet and confer with bargaining units and review by the SSC are not required if the renewal waiver is not controversial. OEA and the SSC have been advised that the District is seeking renewal of the waivers. There is no controversy related to the Gateway program.

Recommendation

Adoption of Resolution 1112-0253 – Request to the State Superintendent of Public Instruction for Renewal of Alternative School of Choice Waiver of Education Codes pertaining to Computing Average Daily Attendance (ADA)

Fiscal Impact

Funding resource name: None to the District

Attachments

- Resolution No. 1112-0253
- Alternative School of Choice Renewal Waiver Request with Attachment

RESOLUTION
OF THE
BOARD OF EDUCATION
OF THE
OAKLAND UNIFIED SCHOOL DISTRICT

Resolution No. 1112-0253

Request to the State Superintendent of Public Instruction for renewal of the Alternative School of Choice Waiver of Education Codes pertaining to **Computing Average Daily Attendance (ADA)**. This is a renewal request to waive the following sections of the California Code related to computation of average daily attendance for high schools: *Education Code § 41601 – Reports of average daily attendance, Education Code § 46202 – Reduction of districts apportionment, Education Code § 46300 – Method of computing average daily attendance, Education Code § 46305 – Reports of active enrollment, Education Code § 48802 – Allowances and Apportionments for concurrently enrolled students* for Fiscal Year 2012-2013.

WHEREAS, The Oakland Unified School District (District) and the Peralta Community College District operate the Gateway to College alternative high school on the Laney College Campus; and

WHEREAS, the aforementioned sections provide the process and unit of measurement for student accounting procedures used in apportioning and distributing state ADA funds for education; and

WHEREAS, section 46300 provides, in part, that in computing average daily attendance, pupils should be under the immediate supervision and control of an employee of the District who possesses a valid certification document; and

WHEREAS, the program is offered on a college campus, the District is requesting renewal of the waiver renewal of the method of computing average daily attendance for K-12 schools; and

WHEREAS, the students are under the supervision and control of a community college instruction; and

WHEREAS, under the agreement with the District, Laney (Peralta Community College District) will not claim Full Time Equivalent Student (FTES) apportionment and instead, the District will claim ADA on behalf of the alternative school established at Laney College (Gateway to College) under the method identified in section 58001.3; and

WHEREAS, under the requirement that students be under the supervision and control of a certificated District employee, the District believes that supervision by a qualified community college faculty person satisfies the intent and purpose of the law; and

WHEREAS, Section 66700 of the Education Code provides, in part, that California Community Colleges are part of the public school system of the state. Section 53405 of the California Code of Regulation provides that references to certificated employees in the California Code of Regulations, as it pertains to community colleges, apply to community

college faculty who meet the minimum qualifications required by the Code. In support of the conclusion that supervision by certificated community college employees satisfies that statute, we note that students can receive high school credit for courses taught by community college faculty under section 48800 (c) of the Education Code; and

WHEREAS, Gateway to College at Laney College is part of the Early College High School Network which is listed as a type of school that can be established under the statutory framework of section 58500 et seq. of the Education Code. The school was established in accordance with statutory procedures and approved by the governing board of the Oakland Unified School District and the California Department of Education, and

WHEREAS, renewal of the waiver of the aforementioned K-12 provisions is necessary to continue to fully implement the Gateway to College model in the college setting; and

WHEREAS, the District is requesting renewal of the waiver for one year; and

WHEREAS, the request by the District for and granting of the renewal of the Waiver by the State Superintendent of Public Instruction will allow Gateway to College to continue to operate on the Laney College campus and collect apportionment, which it would otherwise be denied; and

WHEREAS, the request by the District and granting of the renewal of the Waiver by the State Superintendent of Public Instruction will not have a negative fiscal impact on, or otherwise harm, the District; and

WHEREAS, as provided by California Department of Education regulations a public hearing is not required for renewal requests that are not controversial; and

WHEREAS, this renewal waiver request is not controversial; and

WHEREAS, at its May 9, 2012 meeting, the Board of Education authorized the District to seek waiver of Education Codes pertaining to ADA; and

NOW, THEREFORE, BE IT RESOLVED, the Board of Education of the Oakland Unified School District hereby approves the District's Request for Alternative School of Choice Waiver of Education Codes pertaining to Computing Average Daily Attendance, this renewal request to waive the following sections of the California Code related to computation of average daily attendance for high schools: *Education Code § 41601 – Reports of average daily attendance, Education Code § 46202 – Reduction of districts apportionment, Education Code § 46300 – Method of computing average daily attendance, Education Code § 46305 - Reports of active enrollment, Education Code § 48802 – Allowances and Apportionments for concurrently enrolled students.*

PASSED AND ADOPTED by the Governing Board of the Oakland Unified School District this 9th day of May, 2012, by the following vote, to wit:

AYES: Gary Yee, Noel Gallo, Christopher Dobbins, Alice Spearman, President Jody London

NOES: None

ABSTAINED: None

ABSENT: David Kakishiba, Vice President Jumoke Hinton Hodge

CERTIFICATION

I, Edgar Rakestraw, Secretary of the Governing Board of the Oakland Unified School District, Alameda County, State of California, do hereby certify that the foregoing Resolution was duly approved and adopted by the Governing Board of said District at a meeting thereof held on the 9th day of May, 2012 with a copy of such Resolution being on file in the Office of the Governing Board of said District.



Edgar Rakestraw, Jr.
Secretary, Governing Board

Board Office Use: Legislative File Info.	
File ID Number	12-1156
Introduction Date	May 9, 2012
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CALIFORNIA STATE DEPARTMENT OF EDUCATION
ALTERNATIVE SCHOOL OF CHOICE WAIVER REQUEST
 AEW-1 (Rev. 3/10)

Check one: First time waiver
 Renewal waiver

Return to: Educational Options Office
 California Department of Education
 1430 N Street, Suite 6408
 Sacramento, CA 95814-5901

Telephone: 916-322-5012
 Fax: 916-323-2039

County and District Code:

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Local Educational Agency: Oakland Unified School District	Contact recipient of approval/denial notice: Dr. Anthony Smith, Superintendent
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Address: 1025 Second Avenue	City Oakland	State CA	ZIP 94606	Phone: (510) 879-8200
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Period of request: <i>(month/day/year)</i> From: July 1, 2012 To: June 30, 2013	Local board approval date: <i>(Required)</i> May 9, 2012	Date of public hearing: <i>Note necessary for renewal waivers, unless controversial.</i> N/A
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Part 1: LEGAL CRITERIA

(PLEASE PROVIDE THE INFORMATION REQUESTED IN THE SPACES DESIGNATED)

1. Under the Waiver Authority of the Education Code Section 58509, the particular Education Code or the California Code of Regulations section(s), or portion(s) thereof to be waived: Computing Average Daily Attendance (ADA)

2. If this is a renewal of a previously approved waiver, list approval date, and attach a copy of the original document: August 22, 2011
See Attached

3. Position of the bargaining unit. Does the district have any employee bargaining units? Yes No
Not necessary for Renewal Waivers unless controversial.

Date(s) the bargaining unit(s) was/were consulted: N/A / _____ / _____

Name of the bargaining unit person(s) consulted: _____ / _____ / _____

The position(s) of the bargaining unit(s) was/were: Neutral Support Oppose *Please summarize below.*

Comments (If appropriate): Renewal Waiver is not controversial

4. Public hearing requirement. A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district (modeled after Education Code Section 5362). *Not necessary for Renewal Waivers unless controversial.*

How was the required public hearing advertised? N/A

Notice in a newspaper Notice posted at each school Other _____ *Please summarize below.*
Renewal Waiver is not controversial

5. Advisory committies/school site councils. Please identify the committee or council that reviewed this waiver:
Not necessary for Renewal Waivers unless controversial.
N/A

Date the committee/council reviewed the waiver request: _____

Check here, if there were objection(s) *Please summarize the objection(s) below.*

Renewal Waiver is not controversial

PART II. PURPOSE AND DESIRED OUTCOMES

1. Summary of the *Education Code* or *California Code of Regulations* section(s) or portion(s) to be waived.
 Please summarize the meaning, in plain language, of the *Education Code* or *California Code of Regulations* Section(s) or portion(s) to be waived. If a portion of a section is requested to be waived, include that portion verbatim.

SEE ATTACHED

2. Desired outcome/rationale.
 State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations.

SEE ATTACHED

3. For a waiver renewal, district also must certify:

- | | | |
|-------------------------------------|--------------------------|---|
| True | False | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | The facts which precipitated the original waiver request have not changed. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | The remedy for the problem has not changed. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Members of the local governing board and district staff are not aware of the existence of any controversy over the implementation of this waiver or the request to extend it. |

Renewals of Alternative School of Choice waivers must be submitted **two months prior** to the date the active waiver expires. The local governing board must approve the renewal request. Because the district certifications above assure the State Superintendent that there is no evidence of controversy associated with the waiver's renewal, it is not necessary to repeat the public hearing. Submit the renewal request **at least two months before the waiver expires** to ensure enough time for action by the State Superintendent before the present waiver expires. Retroactive waivers must go through the *first time waiver process*.

District or County Certification

I hereby certify that the information provided on this application is correct and complete.

Signature of Superintendent or Designee

Title
 Superintendent

Date

5-9-12

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Responsible Office:

Guidelines: Met Not Met Don't Exist

CALIFORNIA DEPARTMENT OF EDUCATION RECOMMENDATION: Approve Deny

Staff (Type or print)	Staff (Signature)	Date:
Unit Manager (Type or print)	Unit Manager (Signature)	Date:
Division Director (Type or print)	Division Director (Signature)	Date:
Deputy (Type or print)	Deputy (Signature)	Date:

Renewal Waiver Application
[Computing ADA]

Part II. Purpose and Desired Outcomes

1. ***Summary of the Education Code or California Code of Regulations Section(s) or portion(s) to be waived.*** Please summarize the meaning, in plain language, of the Education Code or California Code of Regulations Sections(s) or portions(s) to be waived. If a portion of a section is requested to be waived, include that portion verbatim.

This is a renewal request to waive the following sections of the California Education Code related to school attendance and minimum school day, minimum school week and minimum school-year.

- *Education Code § 41601 – Reports of average daily attendance*
- *Education Code § 46202 – Reduction of districts appointment*
- *Education Code § 46300 – Method of computing average daily attendance*
- *Education Code § 46305 – Reports of active enrollment*
- *Education Code § 48802 – Allowances and Apportionments for concurrently enrolled students*

The aforementioned sections provide the process and unit of measurement for student accounting procedures used in apportioning and distributing state ADA funds for education. In particular, section 46300 provides, in part, that in computing average daily attendance, pupils should be under the immediate supervision and control of an employee of the district who possesses a valid certification document.

2. ***Desired outcome/rationale.*** State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations.

The legislation authorizing the establishment of alternative schools of choice provides, in part, that school districts may establish alternative schools based on the premise that the best learning takes place when the student learns because of his or her desire to learn. Alternative schools and programs of choice are often characterized by responsiveness to instructional style differences, the positive consequences of being a school of choice, and small unit size. The Gateway to College alternative high school fits this profile.

Gateway to College at Laney College ("Gateway") serves 350 students, 16 to 20 years old, who have dropped out of school and provides a second chance for students to get back on a path leading to economic and educational opportunity. In keeping with the statutory purpose, the program achieves success by maintaining a learning situation that maximizes student self-motivation and encourages a student in his own time to follow his interests.

Because the program is offered on a college campus, the District is requesting a renewal of the waiver of the method of computing average daily attendance for K-12 schools and the requirement that students be under the supervision and control of a certificated K-12 employee. Since Gateway to College is a college-based program, we submit that section 58001.3 of Title 5 of the California Code of Regulations (CCR) provides an alternative and approved method for apportioning and distributing ADA funds in the program. Under agreement with OUSD, Laney (Peralta Community College District) does not claim FTES apportionment. Instead, OUSD claims ADA on behalf of the alternative school established at Laney College (Gateway) under the method identified in section 58001.3.

Regarding the requirement that students be under the supervision and control of a certificated district employee, we believe that supervision by a qualified community college faculty person satisfies the intent and purpose of the law. Section 66700 of the Education code provides, in part, that California Community Colleges are part of the public school system of the state. Section 53405 of the CCR provides that references to certificated employees in the CCR, as it pertains to community colleges, apply to community college faculty who meet the minimum qualifications required by the Code. In support of the conclusion that supervision by certificated community college employees satisfies that statute, we note that students can receive high school credit for courses taught by community college faculty under section 48800 (c) of the Education Code. Hence, a renewal waiver of the aforementioned K-12 provisions is necessary to fully implement the Gateway to College model in the college setting. The District is requesting a renewal of the waiver for one year.

Evaluation Procedure

An annual evaluation, pursuant to Education Code Section 58510, will be performed in accordance with guidelines established by the California Department of Education and the State Superintendent of Public Instruction. The evaluation will be conducted by the OUSD Office of Alternative Education and will include input from key stakeholders such as teachers, students, and parents and guardians.

The methodology used will be consistent with evaluations of other OUSD Alternative Schools and Programs. The evaluation will include student performance data on K-12 mandatory testing and will examine features such as the following to determine their impact on student learning outcomes:

- Sustainable Partnership (e.g., advisory committee, referrals, information sharing systems, etc.)
- Integration of the program into college (e.g., attendance on college calendar, college orientation, flexible class schedule)
- Dual credit (e.g., diploma and testing requirements are aligned with college courses, counselors trained in high school and advising systems)
- Adequate teaching and administrative staff
- Collaboration between faculty members and between students (e.g., team based approach to student success)
- Teaching and Learning (e.g., rigor and relevance in the curriculum)

- Student Support systems (e.g., focus on academic and non-academic barriers)
- Professional Development for faculty and staff (e.g., mission and core values communicated, roles and responsibilities are clearly communicated)

School is Legally Compliant

Gateway to College at Laney College is part of the Early College High School Network which is listed as a type of school that can be established under the statutory framework of section 58500 et seq. of the Education Code. The school was established in accordance with statutory procedures and approved by the governing board of the Oakland Unified School District and the California Department of Education.



CALIFORNIA
DEPARTMENT OF
EDUCATION

TOM TORLAKSON
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

U.S.D.
EDUCATION
2012 MAY -3 A 9:16

August 22, 2011

SUPT
Rec'd AUG 24, 2011
O U S D

Anthony Smith, Superintendent
Oakland Unified School District
1025 Second Avenue
Oakland, CA 94606-2212

Dear Superintendent Smith:

This letter is in response to your request for renewal of the waivers pertaining to your district's alternative school of choice, the Gateway to College (GTC) at Laney College. The California *Education Code (EC)* sections you have requested to waive are listed in the attached table, Overview of Gateway to College Waiver Renewal Requests.

Your renewal request explains that the GTC Program is being offered in partnership with Laney College. The program is based on the national GTC model, which has achieved success serving at-risk youth aged sixteen to twenty who have dropped out of high school and are significantly behind in credits. Your request explains that the program achieves success by combining high academic expectations with one-on-one advising and support. A key component of the program is that the district is able to claim average daily attendance (ADA) for GTC students who are taking all their classes at Laney College from Laney College instructors. We understand that this unusual arrangement is necessary to provide sufficient resources for the labor-intensive support these students will need to succeed.

Based on the unusual nature of the requested funding and the limited achievement of objectives, I approve your waiver renewals for one year with the following conditions:

1. Your district will develop an audit process that will demonstrate that ADA funding received for the GTC Program was used only for the GTC Program. My staff will work with you to finalize an acceptable audit process and documentation.
2. The GTC staff will conduct an end-of-semester review in addition to a year-end review. It is anticipated that an earlier analysis of objectives—particularly those relating to course grades and attendance—could result in timely changes that could lead to greater student achievement.

Anthony Smith, Superintendent
August 22, 2011
Page 2

The information gathered from the end-of-semester reviews should be referenced in the annual evaluation report required by *EC* Section 58510, including progress achieved in meeting the objectives and how the evaluation results and program adjustments will be used to develop an action plan for the subsequent year.

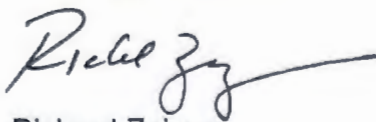
Please send a copy of the governing board-approved annual evaluation report on or before August 1 to:

Carol Abbott, Education Programs Consultant
Educational Options Office
California Department of Education
1430 N Street, Suite 6408
Sacramento, CA 95814-5901

These waivers will be effective for the 2011–12 school year only. We will review audit findings and achievement of program objectives before approving it for the second year. I applaud your efforts to reengage dropouts, and look forward to hearing how implementation of the recommendations in your 2009–10 annual report affected student achievement.

If you have any questions regarding this subject, please contact Carol Abbott, Education Programs Consultant, Educational Options Office, at 916-319-0943 or by e-mail at cabbott@cde.ca.gov.

Sincerely,



Richard Zeiger
Chief Deputy Superintendent of Public Instruction

RZ:vp
Attachment

**Overview of Gateway to College Waiver Renewal Requests
Oakland Unified School District**

Waiver Request Number	California Education Code Section	Description	Gateway to College Alternative
Request #1 Computing Average Daily Attendance (ADA)	41601	Reports of ADA	Laney College (LC) attendance policies will be followed.
	46202	Reduction of district's apportionment	
	46300	Method of computing ADA	
	46305	Reports of active enrollment	
	48802	Allowances and apportionments for concurrently enrolled students	
Request #2 Community College Attendance Summer Courses	48800(d)(1)	Community College summer attendance	Students may attend community college summer courses without undue constraints.
Request #3 Attendance	37201	School month	Students will attend pursuant to LC calendar.
	46141	Minimum school day for high school—240 minutes	School days will be based on LC calendar.
	46146	Day of attendance; 180-minute minimum school day; part-time college	Attendance will be taken in accordance with LC.
	46160	Minimum school week	No such LC requirement.
	46161	Compliance with attendance requirements	Success depends on student's motivation and desire to participate; students will be treated like other LC students.
	46200	Base revenue limits per unit of ADA; additions and reductions; (180 day school year)	ADA funding will be passed through to LC using the community college model, not based on actual days of attendance.

Waiver Request Number	California Education Code Section	Description	Gateway to College Alternative
Request #4 Individual Instruction for Students with Temporary Disabilities	48206.3	Provision of individual home instruction	Oakland Unified School District (OUSD) Special Education department will work with LC Disabled Student Program and Services to serve students.
	48208	Provision of individual hospital instruction	LC does not have this type of support. Students who are in need of individualized hospital instruction will receive Home and Hospital services from OUSD. Students will be temporarily transferred to another OUSD Alternative School while in Home and Hospital. All students will be given the opportunity to return to Gateway to College at LC once they are able.
Request #5 Parental Notification of Student Performance	49067	Parental notification of student performance	Students who are under age 18 must sign release for LC student information to be shared with parents.
Request #6 Student Discipline	48900– 48927	Student discipline	Students will adhere to LC student discipline policies.
Request # 7 Compulsory Education/ Truancy Laws	48200	Children between ages 6 and 18 (Compulsory Education)	LC will have a counselor in contact with students through the foundation term.
	48260	Definition; legislative intent (truancy)	Counselor will contact students who have more than three absences.
	48260.5	Notice to parent regarding truancy	Students will be treated like other LC students.
	48260.6	School Attendance and Review Board process	Counselor will counsel students who are not going to class.

Waiver Request Number	California Education Code Section	Description	Gateway to College Alternative
Request #7, continued	48262	Habitual truant	See above.
	48263	Referral of habitual truants to probation office or district attorney	If Gateway to College is not a good match, counselors will find a better one.