



# A Primer to the Caseload Waiver Process for the Resource Specialist

If you are a resource specialist with close to 28 students on your caseload or have 28 students on your caseload already, you may be interested in knowing the ins and outs of the caseload waiver process.

## What Is a Caseload Waiver?

If your caseload reaches 28 students and your district plans to place additional students in your program, the district is required by law to submit a Resource Specialist Caseload Waiver application to the State Board of Education. This Resource Specialist Caseload Waiver document asks the state to temporarily set aside Education Code 56362 (c): "No resource specialist shall have a caseload which exceed 28 pupils." When your district applies for this waiver, they are asking the state to temporarily waive, for YOU and your program, this section regarding resource specialist caseload limits. This waiver form is a specific document that must contain individualized information concerning your caseload and your program.

## What exactly is the district asking the State Board of Education (SBE) when they submit a caseload waiver?

The district is asking that Education Code concerning the caseload limit of 28 for a resource specialist be waived specifically for you and your program. Without the waiver approved, the district may not exceed 28 students on your caseload. The caseload waiver must be filed in your name, and it does not apply to any other resource specialist in your district. A district or SELPA may file multiple waivers at one time, but each caseload waiver must denote the resource specialist by name. If a waiver is granted, it can not be applied to any other resource specialist in your district.

## What is the district's responsibility when they apply for a Resource Specialist Caseload Waiver?

It is the responsibility of the district to guarantee that increasing your caseload of 28 students up to no more than 32 students would not compromise the education of any students on your caseload. The district must demonstrate to the SBE that extraordinary fiscal or programmatic conditions exist, requiring the need for placing more than 28 students on your caseload. A plan must be submitted outlining how these conditions will be resolved by the time the waiver expires.

## Does the caseload waiver form have a section for the resource specialist to sign?

Yes! The waiver form is not complete until the resource specialist has filled in the corresponding section. As the resource specialist affected by this waiver application, you must agree or disagree with the increase in caseload. Your response is often the determining factor as to whether the caseload waiver will be denied or approved.

## What do the State Board of Education regulations require me to consider before checking agree or disagree?

It is your responsibility as a professional to determine whether the education of all students in your program would be compromised by an increase beyond the limit of 28. You must assess whether you can provide services as stated on every student's IEP. The State Board of Education regulations stipulate that you consider all program conditions affecting the implementation of your students' IEPs. These conditions include, but are not limited to, the following: Will pupil contact time be affected? How many curriculum levels must be taught at any one time or in any given

session? Would the design of instruction and the degree to which the students are taught be diminished? What are the age levels and age spans? What are the behavioral characteristics of the students served? As the resource specialist, you must realistically determine if an increase of caseload, up to 32 students, will impact the integrity of the program.

## What does it mean if I check "Disagree" on the caseload waiver?

If you check disagree, it means that, in your professional judgment, you cannot serve the students in your program appropriately if your caseload exceeds 28. Disagree means you believe your program would be negatively impacted by the increase in caseload. The State Board of Education needs your professional opinion in order to make an educationally sound decision. If you disagree, you need to write a dissenting statement in the section provided on the caseload waiver. It should specifically address your concerns, particularly those related to program conditions which would negatively impact your ability to implement your students' IEPs (see those listed in the previous question).

## What does it mean if I check "Agree" on the caseload waiver?

If you check agree, it means you agree with the district that increasing your caseload from 28 students to not more than 32 students would not compromise the education of all the students you are serving. It means you believe you can appropriately implement all the IEP goals and objectives of your students, and their education will not be negatively impacted by your increased caseload. The district must submit the waiver even if you agree because they need permission to waive the state law.

**Does my bargaining unit get involved with the caseload waiver process?**

Yes, participation of the Resource Specialist teacher's bargaining unit is required in the waiver development process (CCR Title V, Sec. 3100 (d) (4)) The Resource Specialist must specify the date or dates the bargaining unit participated in the development of the waiver, and the name and telephone contact for the bargaining representative. The Resource Specialist must also specify the position of the bargaining unit.

**What role does the California Department of Education (CDE) have in the caseload waiver process?**

The CDE looks at each caseload waiver individually. They contact by phone any resource specialist who checked "disagree" on the waiver form. This is not a threatening experience. This is an opportunity to give honest answers to a neutral party about your program and your responsibilities as the affected resource specialist. After discussing concerns with the resource specialist, the CDE sends the caseload waiver document to the State Board of Education with their recommendation as to whether the caseload waiver should be approved or denied.

**What will the State Board of Education do once they have the waiver on the agenda?**

The SBE is committed to supporting the resource specialist in maintaining the integrity of the affected program. If you agree with your district in allowing an increase of caseload, the SBE will approve the caseload waiver. If you disagree with an increase of caseload, the SBE will deny the district the right to increase your caseload. The same resource specialist may not have a waiver for an increase in caseload for more than two school years. The actual time that the caseload is increased must be stated on the caseload waiver document.

**What does the approval of a caseload waiver mean to me?**

An approved caseload waiver means the following: (1) you may increase your caseload up to 32 students, (2) the district must provide a daily five hour instructional aide, (3) the effective period of the caseload waiver does not exceed the past school year and the year it was submitted. It is important to remember there is NO circumstance in which a resource specialist could legally serve more than 32 students.

**What does the denial of a waiver mean to me?**

When the SBE denies a caseload waiver it means the following: (1) your caseload may not exceed 28 students, (2) it is the district's responsibility to find another means of serving those students beyond your 28.

**Why Should I Sign a Waiver??**

1. You honestly, professionally think you can implement all of the IEPs of your up to 32 students. For example, some may only require minimal services or may be exiting at their next IEP. Or you know of a student who will be moving.  
2. If you don't already have 5 hours of paraprofessional support, "This waiver will result in the resource specialist having assistance of an instructional aide at least 5 hours daily." (direct language from waiver)  
The additional support that an instructional aide represents is of value and will make your implementation of your students' IEPs better.  
3. You want the district to be on notice that you understand the process. You understand Code and the law. Implementation of the IEPs is the most important thing. What is in the best interests of the students needs to be first and foremost. Signing the waiver denotes that you are openly acknowledging that caseload has been exceeded and that you understand all of the legalities (56362 (c), 56362.1). You are willing to cooperate with the district to give them time to recognize and solve the problem before it becomes unmanageable for you and your students. It also formally engages the State Board of Education as a partner in solving a potential problem.

**SPECIFIC WAIVER REQUEST FOR RESOURCE SPECIALIST CASELOAD**

SW-RSC (Rev. 6-23-2010) <http://www.cde.ca.gov/re/lr/wr/>

Send original plus one copy to:  
 Waiver Office, California Department of Education  
 1430 N Street, Suite 5602  
 Sacramento, CA 95814

Send electronic copy in **Word** and  
 back-up material to: [waiver@cde.ca.gov](mailto:waiver@cde.ca.gov)

						<b>CD CODE</b>					
Local educational agency:				Contact name and Title:				Contact person's e-mail address:			
Address:				City:				Zip			
						Phone (and extension, if necessary):					
						Fax number:					
Period of request: (month/day/year)						Date approved by district board or COE board, SELPA, or other public education agency as defined by EC Section 56500.					
From:						To:					

**LEGAL CRITERIA**

1. Authority for the waiver:

*Education Code (EC) Section 56101, and California Code of Regulations (CCR), Title 5, Section 3100, resource specialist caseload waiver: "A school district, special education local plan area, county office of education or any other public agency providing special education or related services may request the State Board of Education to grant a waiver of the maximum resource specialist caseload, as set forth in EC Section 56362(c), only if the waiver is necessary or beneficial to either; (1) to the content and implementation of a pupil's individualized educational plan (IEP) and does not abrogate any right provided individuals with exceptional needs by specified federal law or; (2) to the agency's compliance with specified federal law."*

2. *Education Code* Section to be waived: *EC 56362 (c): No resource specialist shall have a caseload that exceeds 28 students.*

Note: the waiver request may be up to but no more than 4 students above the statutory caseload (32 students maximum).

3. Requesting a caseload waiver for: \_\_\_\_\_ (number) of resource specialists.

Please use separate SW-RSC form for Resource Specialist (RS) teachers who agree with the waiver request, and those who disagree with the waiver request.

Resource specialist(s) name:

Assigned school and mailing address:

1. \_\_\_\_\_; at

2. \_\_\_\_\_; at

3. \_\_\_\_\_; at

4. \_\_\_\_\_; at

Please add list of additional teacher names and schools/district as needed.

# SPECIFIC WAIVER REQUEST FOR RESOURCE SPECIALIST CASELOAD

SW-RSC (Rev. 6-23-2010)

Per CCR, Title 5, Section 3100(d)(4) participation of the resource specialist teacher's bargaining unit is required in the waiver development.

Does (do) the resource specialist(s) belong to an employee bargaining unit(s)? \_\_\_ No \_\_\_ Yes

If yes, please complete required information below:

Date(s) the bargaining unit(s) participated in the waiver development:

Name of bargaining unit and/name of representative(s) consulted:

Telephone contact for bargaining representative:

The position(s) of the bargaining unit(s): \_\_\_ Neutral \_\_\_ Support \_\_\_ Oppose *(Please provide comments)*

Comments (if appropriate):

Note: For each resource specialist attached page 3 of 4 SW-RSC waiver request to be completed by the Administrator and page 4 of 4 SW-RSC waiver request to be completed by the Resource Specialist.

*Certification- I hereby certify that the information provided on this application is correct and complete. I also certify this waiver request will never result in the same resource specialist having a caseload in excess of the statutory maximum for more than two years and that this waiver request will result in the resource specialist(s) above having the assistance of an instructional aide at least 5 hours daily.*

Signature of Superintendent or Designee: <b>OR</b>	Title:	Date:
Signature of SELPA Director:		Date:

**Note: If this waiver request comes from a SELPA Director, a vote by the district of COE governing board is not necessary. Please put the date of SELPA approval in the approval box on the first page of this waiver. This will speed processing.**

## FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

**Is there a Complaint or Compliance issue regarding Resource Specialist for the LEA ? Yes \_\_\_ No \_\_\_**

Staff <i>(Type or print):</i>	Staff <i>(Signature):</i>	Date:
Unit Manager <i>(Type or print):</i>	Unit Manager <i>(Signature):</i>	Date:
Division Director <i>(Type or pint):</i>	Division Director <i>(Signature):</i>	Date:
Deputy <i>(Type or print):</i>	Deputy <i>(Signature):</i>	Date:

**SPECIFIC WAIVER REQUEST FOR RESOURCE SPECIALIST CASELOAD  
To be completed by the ADMINISTRATOR**

1. SELPA/District/COE Name:	2. Name of Resource Specialist*:
3. School/District Assignment:	4. Status: ___ permanent ___ probational ___ temporary
5. Number of students: (caseload) proposed ___ students	6. Full time Equivalent (FTE%):
7. Number of periods or hours taught by Resource Specialist:  ___ periods ___ hours	8. Average number of students per hour taught:
<p>8. Indicate amount of Instructional Aide Time ___ (hours) to be provided to this resource specialist with this waiver.</p> <p><b>Note: At least 5 hours of aide time is required when the caseload is over 28, per CCR, Title 5, Section 3100 (d)(2):</b></p>	
<p>9. Provide assurance that the waiver will not hinder the implementation of a student's individualized educational program (IEP) for all students involved with the waiver or compliance with specified federal law, per CCR, Title 5, Section 3100(d):</p>	
<p>10. Explain what extraordinary fiscal or program circumstances resulted in this request for excess caseload, per CCR, Title 5, Section 3100(d):</p>	
<p>11. Indicate how your plan of action to resolve conditions by the time the waiver expires or is denied by the SBE, per CCR, Title 5, Section 3100(d)(1):</p>	
<p align="center"><i>Certification – I hereby certify that the information provided on this application is correct and complete.</i></p>	
Administrator/Designee Name ( <i>Type or print</i> ):	Title:
Authorized/Designee Signature:	Date:
Telephone number (and extension):	Fax Number:

\*Resource Specialist as defined in EC Section 56362.5

## SPECIFIC WAIVER REQUEST FOR RESOURCE SPECIALIST CASELOAD

### To be completed by the RESOURCE SPECIALIST (Teacher)

Name:	Assigned at:
<p>1. Is the information in Items 1-9 on the attached SW-RSC-Administrator form an accurate reflection of your current assignments, personal data, FTE, your caseload, number of periods taught and average number of students?          YES ___ NO ___ If not, please state where you believe these facts or numbers differ:</p>	
<p>2. Will all students served received all of the services called for in their IEP's? Can you reasonably manage the excess caseload in relation to the programmatic condition you face, including, but not limited to, student age level, age span, and behavioral characteristics; number of curriculum levels taught at any one time or any given session, and intensity of student instructional needs. Explain below.</p>	
<p>3. Can you reasonably manage the excess caseload in relation to your student contact time, and other assigned duties? Explain below.</p>	
<p>4. <i>EC</i> Section 56362(c) states that no resource specialist shall have a caseload which exceeds 28 students, per <i>CCR</i>, Title 5, Section 3100 Regulations allow your agency to request a waiver of the <i>EC</i>, providing certain conditions are met, and that in no circumstance may your caseload be raised to above 32 students.</p> <p>Indicate your position regarding this waiver request by a check mark in one box.</p> <p>___ AGREE – to the increase in my student caseload from 28 students to not more than 32 students.</p> <p>___ DISAGREE – to an increase in my student caseload over the 28 students. If disagreeing, provide rational below:</p>	
<p>5. Indicate a check mark in the appropriate box:</p> <p>___ I did not have a student caseload of more than 28 during the last school year.</p> <p>___ I did have a student caseload of more than 28 during the last school year. If yes, please respond below:</p> <p>(a) Did you have an approved waiver for this caseload?</p> <p>(b) Specify which months/weeks you were over caseload: ___ to ___</p> <p>(c) Other pertinent information?</p> <p>___ I have had a student caseload of <b>more than 28</b> for <b>MORE</b> than <b>Two consecutive years</b>.</p>	<p>Instructional Aide time currently receiving ___ Hours (prior to increased caseload).</p> <p>Any additional aide time with this waiver?</p> <p>___ Total hours after increase.</p>
Resource Specialist Signature:	Date Signed:
Telephone/extension:	
Fax Number:	