

TVEA SPEC ED TEACHER SUPPORT PROTOCOL FOR LEGAL COMPLIANCE WITH CDE/CCR CASELOAD

TVEA Spec Ed Comm 1/2017

TVEA Executive Board & Membership: The following TVEA Special Education teacher procedures and TVEA Spec Ed Caseload Support Protocol is being submitted so that TVEA members, President, and Executive Board have clear and common guidelines to support legal compliance with members' student caseload maximums of 28 as put forth in CA Education Code Section 56362 (Caseload), as well as with California Code of Regulations (CCR), Title 5, Section 3100 (Caseload Waiver).

*Education Code (EC) Section 56362 (c): No resource specialist shall have a caseload that exceeds 28 students. *This can be interpreted to mean RSP/SDC blended program teacher as well. A caseload is defined as those students for whom a teacher has IEP management and services responsibilities.*

*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." *Approval of this waiver allows the teacher to exceed the maximum caseload of 28 students by no more than four students (32 maximum).*

TVEA Spec Ed Teacher Process for CDE Caseload / Caseload Waiver Compliance:

Note: Prior to a teacher alerting site and district administration that s/he is at 26 or 28 students, the caseload should be 'leveled' or balanced between all job-similar teachers on site. For example, if there are 3 mild/moderate spec ed teachers on site, students in excess of 26/28 should be transferred to teachers with lower caseload numbers. The Caseload waiver would be appropriate when any teacher on site has exceeded 28 students, once all job-similar teachers on site have reached at least 28 students.

- At reaching 26 students - case managers will email site admin, program specialist, Sped Admin; cc TVEA as to current caseload of 26

"This email is to inform you that I currently have 26 students on my caseload with ___ pending initial assessments to be completed by (dates). I anticipate that my caseload will likely reach the legal maximum of 28 students by (date) and wanted to provide sufficient notice to both my site administrator and the district office administration." If applicable also add: "Other job-similar teachers at my site have caseloads of ___ with ___ pending assessments"

- At reaching 27 students - case managers will email site admin, program specialist, Sped Admin; cc TVEA as to current caseload of 27

“This email is to inform you that I currently have 27 students on my caseload with ___ pending initial assessments to be completed by (dates). I anticipate that my caseload will likely reach the legal maximum of 28 students by (date) and wanted to provide sufficient notice to both my site administrator and the district office administration.” If applicable also add: “Other job-similar teachers at my site have caseloads of ___ with ___ pending assessments”

- At reaching 28 students - email site admin, program specialist, Sped Admin; cc TVEA

“This email is to inform you that I have reached the Ed Code 56362 legal maximum caseload of 28 students, and this site has ___ pending initial assessments to be completed by (dates). I emailed previously on (dates) when I had reached 26 and 27 students and wanted to follow up by letting you know my current numbers and that I am now at legal caseload maximum. If applicable also add: “Other job-similar teachers at my site have caseloads of ___ with ___ pending assessments” **I am willing to extend caseload management and instructional services up to an additional 4 students (total of 32) for a period of up to 2 weeks (14 days) from this date without requiring a caseload waiver as required by Education Code Section 56101 and California Code of Regulations, Title 5, Section 3100. I anticipate needing the following additional supports to allow me to serve the additional students during this 21 days:** _____

*****At this point, TVEA will begin actively implementing the TVEA Spec Ed Member Support Protocol for CDE Caseload / Caseload Waiver.***

TVEA Support Protocol for Legal Compliance with CDE Caseload / Caseload Waiver:

1. Beginning on the Date Caseload Overage Begins (29+ students):

Teacher(s): Notify site Admin & DO Spec Ed Admin (cc to TVEA) in writing (see above) re their caseload overage numbers and pending assessments, include the CA Ed Code 56362 caseload limits and CA Ed Code 56101 waiver law regarding same, and a statement as to what the teacher(s) feel is a reasonable time frame (14 days) to continue over caseload without a waiver being offered as required by CDE law.

TVEA: Speak / email site Admin and DO SpecEd Admin re teacher over caseload and support the provision of a qualified case manager for students in excess of 28 within the 14 day timeline (Qualified = **SpecEd credentialed** teacher or sub who will take on all caseload and instructional duties for students). Further, any additional supports the teacher(s) need during the 14 days should be considered and requested (IA support; extra duty pay; sub days to cover assessments, etc).

Alert district that TVEA will support its members by expecting the district to conform with SpecEd law as stated in CA EdCode and supply a caseload waiver to the teacher for consideration if situation not resolved by the provision of a qualified case manager for students in excess of 28 within the 14 days (Qualified = **SpecEd credentialed** teacher or sub who will take on all caseload and instructional duties for students). If district does

not provide a caseload waiver to the teacher for his/her consideration, TVEA will present one to the district on behalf of the teacher.

2. As the 14-day timeline, as stated in #1 nears completion:

TVEA: Inquire of TVUSD SpecEd Admin whether a qualified case manager will be taking the students over 28 or whether the teacher will be requested to remain over 28 caseload beyond the 14 days (Qualified = **SpecEd credentialed** teacher or sub who will take on all caseload and instructional duties for students). If so, TVEA will request verbally and in writing that the district conforms with SpecEd law as stated in CA EdCode and the district supply a caseload waiver to the teacher for consideration to allow the teacher to continue to case manage up to 32 students. If district does not provide a caseload waiver to the teacher for his/her consideration, TVEA will present a caseload waiver to the district on behalf of the teacher at the end of the 14-day timeline.

3. If TVUSD is not in compliance with presenting and filing a caseload waiver for TVEA members, as outlined above, then TVEA and CTA will consider filing a CDE complaint on behalf of its members.

CDE Caseload Waiver Info and Forms Website Links:

[Caseload Waiver Information Link](#)

[Caseload Waiver Required Attachments - Teacher & Admin](#)

[Online Waiver Request System Submission Link](#)

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

“EC Section 56101 allows the State Board of Education (SBE) to waive any provision of EC or regulation if the waiver is necessary or beneficial when implementing a student IEP. Title 5 CCR specifically allows the SBE to approve waivers for resource specialists providing special education services to exceed the maximum caseload of 28 students by no more than four students. However, there are specific requirements in these regulations which must be met for approval, and if these requirements are not met, the waiver must be denied.”

(See sample Waiver Forms on Next Page)