#### WAIVERS: Caseloads, Class Size & FAPE SPECIAL EDUCATION BUREAU (SEB)

# Free & Appropriate **Public Education (FAPE)**

 $\in$  The Individuals with Disabilities Education Act (IDEA) requires a school district or charter school (LEA) to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who is in the school district's or charters school's jurisdiction, regardless of the nature or severity of the student's disability.

 $f \in In$  New Mexico special education and related services must meet all of the following requirements: €The Standards of Excellence (6.29.1 NMAC) €Appropriate Teacher Licensure €Student Intervention System € Weighted Caseloads



## **FAPE & Weighted Caseloads**

€ Caseload: The total number of students receiving special education and speech-only services as special education, for whom a special education teacher or speech language pathologist has responsibility for developing and monitoring the student's IEPs. (6.29.1.7 (W) NMAC)

€Special Educators may often serve students in addition to students whose files they manage.

€ New Mexico has adopted a weighted caseload system to limit caseloads assigned to special educators and ensure that FAPE is available to all students with disabilities.

€ The greater the level of services the fewer number of IEPs the caseload manager is responsible for developing and monitoring.

### What is a Caseload Waiver?

- € Appropriate Student/Staff Caseloads: As defined by regulatory standard 6.29.1(H) (1) (7) NMAC.
  €FOR EXAMPLE:
  - € A caseload manager providing minimum (A level) services will be responsible for 35 IEPs (weighted at 0.029).
  - € A caseload manager providing maximum (D level) services will be responsible for 8 IEPs (weighted at 0.125).

€ Caseload Waiver: In the event the student/staff ratio (caseload), exceeds the standards in 6.29.1 (H) (1) – (7) NMAC, a request for waiver shall be submitted to the Secretary of Education for review and approval.

 $\in$  Waivers should be the exception NOT the norm.

## How do I know if I need a waiver?

• Review the Teacher and SLP Caseload and Waiver Requirement report in STARS.

🔄 his report flags overages

	Caseload FTE:	1.09
	Contract FTE:	1.00
2	Waiver Required	-0.09

• A caseload waiver request must be submitted for each teacher where a flag condition occurs, as in the example above.

## Figuring caseload maximums

teacher 1/35 or .029 FTE 1/60 or .017 FTE 1/24 or .042 FTE
1/35 or .029 FTE 1/60 or .017 FTE
1/35 or .029 FTE 1/60 or .017 FTE
1/60 or .017 FTE
1/60 or .017 FTE
,
,
1/24 or .042 FTE
.,
1/35 or .029 FTE
1/15 or .067 FTE
1/8 or .125 FTE
RS)
<u>kimum Caseload</u>

# **Figuring Caseloads**

4	А	В	С	D	E	F	G	Н	I.	J	К	L	М	N	E
1 2	Staff Name:	Jane Doe		Staff Name:	John Doe		Staff Name:	Joe Q. Public		Staff Name:	Jane Q. Public		Staff Name:	Peter Piper	
3	Service Level	FTE		Service Level	FTE		Service Level	FTE		Service Level	FTE		Service Level	FTE	
4	D	0.125		A	0.029		A	0.029		A	0.029		С	0.06	7
5	D	0.125		В	0.042		A	0.029		В	0.042		C	0.06	7
6	D	0.125		C	0.067		A	0.029		В	0.042		C	0.06	7
7	D	0.125		D	0.125		A	0.029		В	0.042		C	0.06	7
8	D	0.125		D	0.125		A	0.029		В	0.042		C	0.06	7
9	D	0.125		D	0.125		A	0.029		В	0.042		C	0.06	7
10	D	0.125		A	0.029		A	0.029		В	0.042		D	0.12	5
11	D	0.125		С	0.067		A	0.029		В	0.042		D	0.12	5
12	D	0.125		С	0.067		В	0.042		В	0.042		D	0.12	5
13	Total Caseload	1.13		В	0.042		В	0.042		В	0.042		D	0.12	5
14		1940040		D	0.125		В	0.042		В	0.042		D	0.12	5
15				С	0.067		В	0.042		В	0.042		D	0.12	5
16				B	0.042		В	0.042		В	0.042		Total Caseload	d 1.1	5
17				Total Caseload	0.95		С	0.067		С	0.067				
18							С	0.067		с	0.067				
19							С	0.067		С	0.067				
20							D	0.125		с	0.067				
21							D	0.125		с	0.067				
22							D	0.125		с	0.067				
23							Total Caseload	1.02		Total Caseload	0.94				v

## When do I submit a waiver?

€Submit waiver requests with 40 Day, 80 Day and 120 Day STARS reporting periods. (Waivers are NOT required for EOY.)

€To ensure need for a waiver and accuracy of caseload totals, submit <u>after</u> your STARS Coordinator has submitted "TEST Data" for reporting.



Where do I find the waiver?  $\in$ Go to the NMPED website at : ttp://www.ped.state.nm.us/ €Go to the A-Z Directory €Go to Waiver Requests €Go to Special Education Caseload Waiver Request

Who completes and submits the waiver request? €LEA, State Charter or State School: Special Education Director or Coordinator OR **STARS** Coordinator (ONLY personnel listed here shall submit waiver requests.)

Who do I send the waiver to?  $\in$ Submit the waiver to Lorianne Romero, Office of the Secretary, via email to Lorianne.Romero@state.nm.us  $\in$ You do not have to directly submit the waiver to your assigned SEB Educational Administrator (EA)

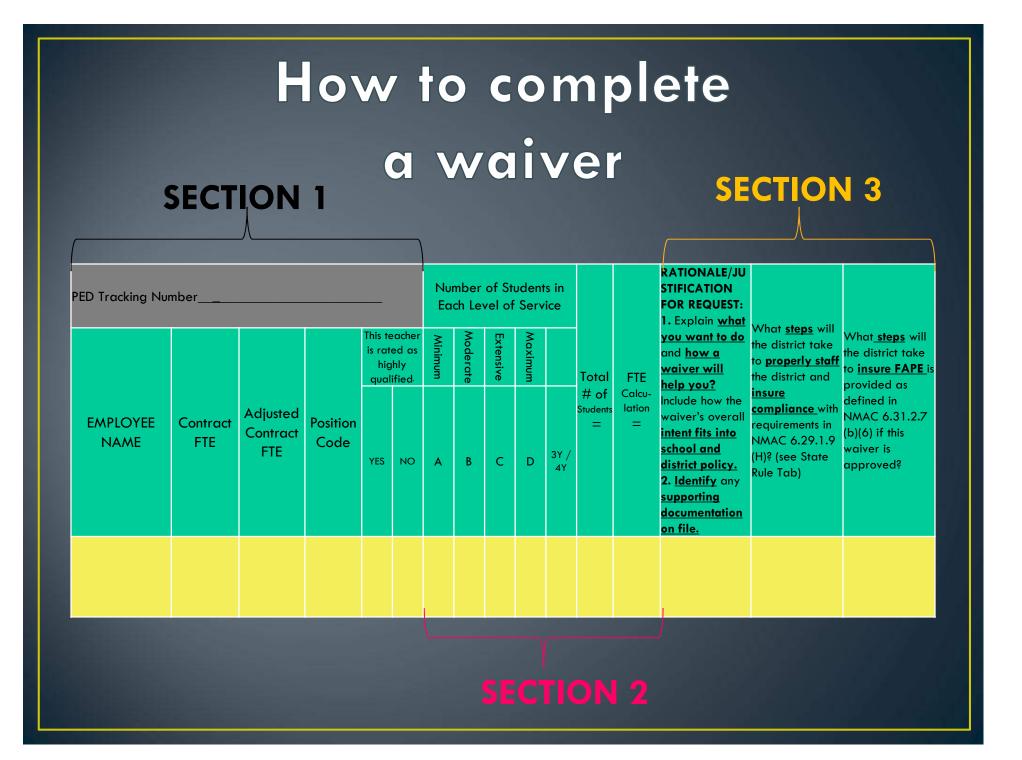
EYou can send a courtesy cc: to your SEB EA when submitting to Lorianne Romero.

## What is the SEB Waiver Review Process?

- €SEB EA will review the STARS Teacher and SLP Caseload and Waiver Requirement Report to ensure accuracy
- €The waiver rationale and justification will be examined to determine if a waiver shall be granted based on 6.29.1 NMAC (8)
- €SEB EA may need to contact you for further information, clarification or error correction
   €Waivers may be returned to LEA for correction of errors

# What is the waiver approval process?





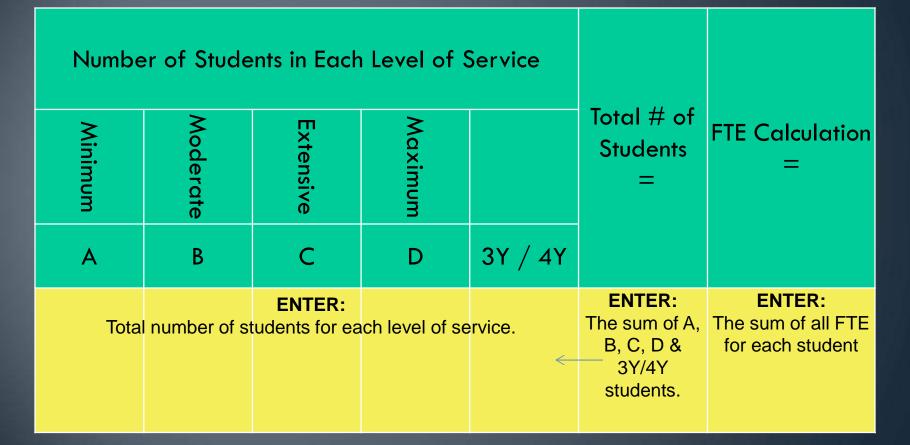
## How to complete a waiver – SECTION 1

PED Tracking Number\_

	Contract			This teacher is rated as highly qualified.			
EMPLOYEE NAME	Full Time Equivalent (FTE)	Adjusted Contract FTE	Position Code	YES	NO		
ENTER: Name of employee who has an <u>overage</u> in Contract FTE here	ENTER: Total time employee is hired		ENTER: Code 94, 95, 95S, 96 or 97 (The code where the employee is <u>highly</u> <u>qualified</u> should be used.)				

€Staff Assignment – Position Codes can be found in the STARS Manual Volume 2, page 83
 Refer to 34 CFR 300.18 – for information on Highly Qualified Special Education Teachers.

## How to complete a waiver - SECTION 2



• Refer to the Teacher & SLP Caseload and Waiver Requirement Report in STARS

• Refer to your spreadsheet Tracking Sheet (see Figuring Caseload slide)

## How to complete a waiver – SECTION 3

#### RATIONALE/JUSTIFICAT ION FOR REQUEST:

 1. Explain what you
 N

 want to do and how a
 a

 waiver will help you?
 a

 Include how the waiver's
 a

 overall intent fits into
 a

 school and district
 a

 policy.
 2. Identify any

 supporting
 a

 documentation on file.
 ENTER:

<u>WHY</u> do you need a waiver? <u>HOW</u> will a waiver help you? <u>SUPPORTING</u> information What <u>steps</u> will the district take to <u>properly</u> <u>staff</u> the district and <u>insure compliance</u> with requirements in NMAC 6.29.1.9 (H)? (see State Rule Tab)

What<u>steps</u> will the district take to <u>insure</u> <u>FAPE</u> is provided as defined in NMAC 6.31.2.7 (b)(6) if this waiver is approved?

ENTER: <u>WHAT</u> are you going to do to:

Become properly/fully staffed?

Insure compliance with all applicable regulations?

ENTER:

<u>WHAT</u> you are going to do to ensure FAPE is provided to all students with an IEP?

Answer each question **CLEARLY & CONCISELY** by providing a response for each question asked. (See all **bold and underlined** items.)

## **Common Errors to Avoid**

€Caseload is NOT class size/class load Do not explain your teaching load or schedule €"Cutting and pasting" errors €Using "see above," "see column," etc.  $\in$  Ensure there is a response for each question. Elnappropriate responses or not enough information provided to the questions requiring a written response.  $\in$  If stated LEA is in compliance with policy, ensure

you know what the policy is and are in compliance.

# How **NOT** to Complete a

## Waiver

PE	D Tracking Nur	Number of Students in Each Level of Service							RATIONALE/JU STIFICATION FOR REQUEST: 1. Explain <u>what</u>							
					is rat hig	eacher ed as hly ified	Minimum	Moderate	Extensive	Maximum		Total	I FTE	and <u>how a</u> waiver will	What <u>steps</u> will the district take to <u>properly staff</u> the district and	e the district take to insure FAPE is
	EMPLOYEE NAME	Contract FTE	Adjusted Contract FTE	Position Code	YES	NO	A	В	С	D	3Y / 4Y	# of Students =	Calcu- lation =	Include how the waiver's overall intent fits into school and district policy. 2. Identify any supporting documentation on file.	<u>insure</u> <u>compliance</u> with requirements in NMAC 6.29.1.9 (H)? (see State Rule Tab)	defined in NMAC 6.31.2.7 (b)(6) if this waiver is approved?
	John Doe	1.00		93S	X		2	3	4	4	0	<u>10</u>	.95			

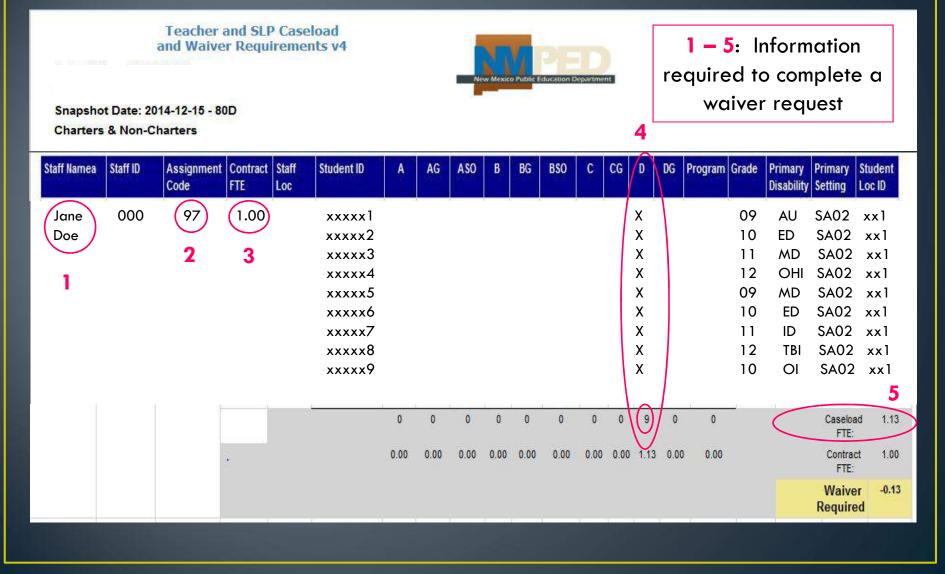
#### **ERRORS**:

- Contract FTE = 1.00 while the FTE Calculation = .95
- The position code is incorrect Code 93S cannot carry caseload; must be code 94, 95, 95S, 96 or 97
- The total number should = 13 NOT 10 as indicated

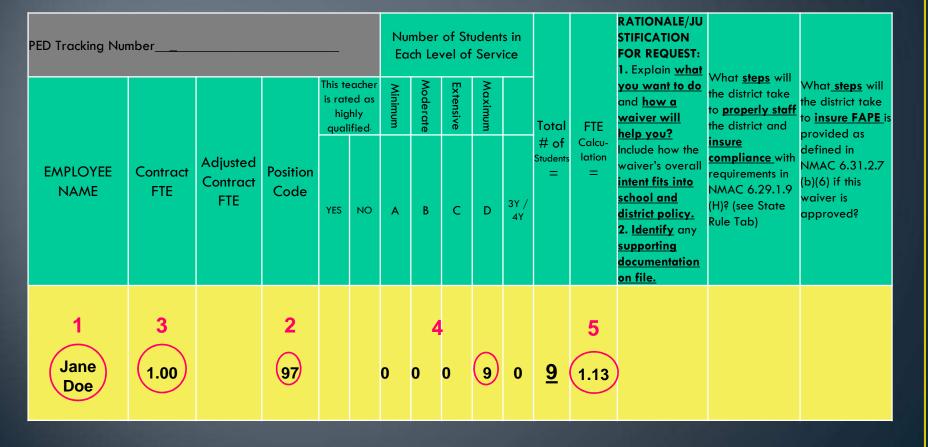
#### How to <u>NOT</u> Complete a Waiver -Justification and Plans of Action Sections

<ul> <li>RATIONALE/JUSTIFICATION FOR REQUEST:</li> <li>1. Explain <u>what you want to do</u> and <u>how a</u> waiver will help you? Include how the waiver's overall <u>intent fits into school and district policy.</u></li> <li>2. <u>Identify</u> any <u>supporting documentation on file.</u></li> </ul>	Our Special Education Teacher teaches 5 students for 1 <sup>st</sup> period, 10 for 2 <sup>nd</sup> period then has the rest of the day to do paperwork. There are currently no hiring initiatives because we are in compliance with the regulations.
What <b>steps</b> will the district take to <b>properly staff</b> the district and <b>insure compliance</b> with requirements in NMAC 6.29.1.9 (H)? (see State Rule Tab)	We are in compliance with the regulation because our staff person has the rest of the day to do paperwork.
What <u>steps</u> will the district take to <u>insure FAPE</u> is provided as defined in NMAC 6.31.2.7 (b)(6) if this waiver is approved?	Same a above

### Teacher and SLP Caseload and Waiver Requirements Report in STARS



## SAMPLES: Completing a waiver using the Teacher & SLP Caseload & Waiver Requirement Report in STARS



#### **SAMPLES:** Completing

#### the Justification and Plans of Action Sections

<ul> <li>RATIONALE/JUSTIFICATION FOR REQUEST:</li> <li>1. Explain <u>what you want to do</u> and <u>how a</u> waiver will help you? Include how the waiver's overall <u>intent fits into school and district policy.</u></li> <li>2. <u>Identify</u> any <u>supporting documentation on</u> file.</li> </ul>	Our district is currently short-staffed with special education teachers due to a teacher resignation and unexpected student enrollment; our goal is to become fully staffed. A waiver will help us to serve our special education students which is our district's policy. Evidence of hiring initiatives on file.
What <u>steps</u> will the district take to <u>properly staff</u> the district and <u>insure compliance</u> with requirements in NMAC 6.29.1.9 (H)? (see State Rule Tab)	Currently, we are recruiting special education teachers. Also, we will offer permanent positions to substitutes and support them to obtain their alternative licensure. We are utilizing Educational Assistants to assist with caseloads and in meeting the 8:1 ratio requirement.
What <u>steps</u> will the district take to <u>insure FAPE</u> is provided as defined in NMAC 6.31.2.7 (b)(6) if this waiver is approved?	Professional development and other supports to staff are provided. We will also monitor staff and IEPs to ensure FAPE is provided to students.

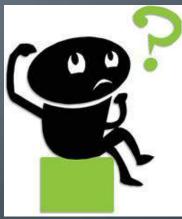
Key points to remember when completing a waiver request: €Complete all requested information and boxes with CLEAR and CONCISE responses. €CHECK spelling, grammar and punctuation. Elf case load is not over the staff's allocated FTE, DO NOT submit a request. €Double and cross-check data.

## What happens next?

Emplement the plans as indicated in the waiver (Justification and Plans of Action Sections)

€Hire staff as needed

€Take steps to avoid caseload overages



**Considerations:** €Spring Projections Advocate for staff if needed Work with the budget manager EWaiver Requests will be monitored and tracked by the SEB €School Budget may contact LEA if waiver requests continue into a  $2^{nd}$  year. €Licensing Bureau will be validating position codes

## **Considerations** Continued: ESEB EA has discretion to recommend waivers for denial to the Secretary **Esubstitutes and Alternative Licensing Options** €Preschool Caseload E Speech Only Students vs. Other Special Needs €Gifted Caseload

# "Waivers should be the exception NOT the norm"



#### **Special Education Bureau:**

120 S. Federal Place, Room 206 Santa Fe, NM 87501

Phone: (505) 827 – 1457 Fax: (505) 954 – 0001

For questions or support please contact your SEB EA

#### THANK YOU