

WAIVERS: Caseloads, Class Size & FAPE

SPECIAL EDUCATION BUREAU (SEB)

Free & Appropriate Public Education (FAPE)

- € 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.
- € 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.

€ **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.

€ This report flags overages



Caseload FTE:	1.09
Contract FTE:	1.00
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

For teachers with position codes:

94 - Regular education teacher of gifted

96 - Preschool teacher

95 - Related service caseload teacher

97 - Special education teacher

Caseloads:

Each "A or minimum" level student (Receives Special Education service 10% or less of the day = level 1 on STARS)	1 / 35 or .029 FTE
Each "A or minimum" related service student (must be under staff at code 95)	1 / 60 or .017 FTE
Each "B or moderate" level student (Receives Special Education service less than half of the day = level 2 on STARS)	1 / 24 or .042 FTE
Each "B or moderate" related service student (must be under staff at code 95)	1 / 35 or .029 FTE
Each "C or extensive" level student (Receives Special Education service half a day or more = level 3 on STARS)	1 / 15 or .067 FTE
Each "D or maximum" level student (Receives Special Education service all day or approaching a full day = level 4 on STARS)	1 / 8 or .125 FTE

(A)

(B)

FTE x Maximum Caseload for Service Level = Maximum Caseload

.029 x 35 = 1.015

Figuring Caseloads

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	Staff Name:	Jane Doe		Staff Name:	John Doe		Staff Name:	Joe Q. Public		Staff Name:	Jane Q. Public		Staff Name:	Peter Piper
2														
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		C	0.067
5	D	0.125		B	0.042		A	0.029		B	0.042		C	0.067
6	D	0.125		C	0.067		A	0.029		B	0.042		C	0.067
7	D	0.125		D	0.125		A	0.029		B	0.042		C	0.067
8	D	0.125		D	0.125		A	0.029		B	0.042		C	0.067
9	D	0.125		D	0.125		A	0.029		B	0.042		C	0.067
10	D	0.125		A	0.029		A	0.029		B	0.042		D	0.125
11	D	0.125		C	0.067		A	0.029		B	0.042		D	0.125
12	D	0.125		C	0.067		B	0.042		B	0.042		D	0.125
13	Total Caseload	1.13		B	0.042		B	0.042		B	0.042		D	0.125
14				D	0.125		B	0.042		B	0.042		D	0.125
15				C	0.067		B	0.042		B	0.042		D	0.125
16				B	0.042		B	0.042		B	0.042		Total Caseload	1.15
17				Total Caseload	0.95		C	0.067		C	0.067			
18							C	0.067		C	0.067			
19							C	0.067		C	0.067			
20							D	0.125		C	0.067			
21							D	0.125		C	0.067			
22							D	0.125		C	0.067			
23							Total Caseload	1.02		Total Caseload	0.94			

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 after your STARS Coordinator has submitted “TEST Data” for reporting.



Where do I find the waiver?

€Go to the NMPED website at :

€<http://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?

- € Submit the waiver to *Lorianne Romero, Office of the Secretary*, via email to Lorianne.Romero@state.nm.us
- € You do not have to directly submit the waiver to your assigned SEB Educational Administrator (EA)
 - € You 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

SECTION 3

PED Tracking Number_____						Number of Students in Each Level of Service					Total # of Students =	FTE Calculation =	RATIONALE/JUSTIFICATION FOR REQUEST: 1. Explain <u>what you want to do</u> and <u>how a waiver will help you?</u> Include how the waiver's overall <u>intent fits into school and district policy.</u> 2. <u>Identify</u> any <u>supporting documentation on file.</u>	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)	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?	
EMPLOYEE NAME	Contract FTE	Adjusted Contract FTE	Position Code	This teacher is rated as highly qualified:		Minimum	Moderate	Extensive	Maximum	3Y / 4Y						
				YES	NO	A	B	C	D							

SECTION 2

How to complete a waiver – SECTION 1

PED Tracking Number _____

EMPLOYEE NAME	Contract Full Time Equivalent (FTE)	Adjusted Contract FTE	Position Code	This teacher is rated as highly qualified.	
				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**

Number of Students in Each Level of Service					Total # of Students =	FTE Calculation =
Minimum	Moderate	Extensive	Maximum			
A	B	C	D	3Y / 4Y		
ENTER: Total number of students for each level of service.					ENTER: The sum of A, B, C, D & 3Y/4Y students.	ENTER: The sum of all FTE for each student

- 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/JUSTIFICATION FOR REQUEST:

1. Explain what you want to do and how a waiver will help you? Include how the waiver's overall intent fits into school and district policy. 2. Identify any supporting documentation on file.

ENTER:

WHY do you need a waiver?
HOW will a waiver help you?
SUPPORTING information

What steps will the district take to properly staff the district and insure compliance with requirements in NMAC 6.29.1.9 (H)? (see State Rule Tab)

ENTER:

WHAT are you going to do to:
- Become properly/fully staffed?
- Insure compliance with all applicable regulations?

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

ENTER:

WHAT 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.
- € Ensure there is a response for each question.
- € Inappropriate responses or not enough information provided to the questions requiring a written response.
- € 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

PED Tracking Number _____						Number of Students in Each Level of Service					Total # of Students =	FTE Calculation =	RATIONALE/JUSTIFICATION FOR REQUEST: 1. Explain <u>what you want to do</u> and <u>how a waiver will help you?</u> Include how the waiver's overall <u>intent fits into school and district policy.</u> 2. <u>Identify</u> any <u>supporting documentation on file.</u>	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)	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?	
EMPLOYEE NAME	Contract FTE	Adjusted Contract FTE	Position Code	This teacher is rated as highly qualified:		Minimum	Moderate	Extensive	Maximum	3Y / 4Y						
				YES	NO	A	B	C	D							
John Doe	1.00		93S	X		2	3	4	4	0	10	.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 **NOT** Complete a Waiver - Justification and Plans of Action Sections

RATIONALE/JUSTIFICATION FOR REQUEST:

1. Explain what you want to do and how a waiver will help you? Include how the waiver's overall intent fits into school and district policy.
2. Identify any supporting documentation on file.

What steps will the district take to properly staff the district and insure compliance with requirements in NMAC 6.29.1.9 (H)? (see State Rule Tab)

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

Our Special Education Teacher teaches 5 students for 1st period, 10 for 2nd 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.

We are in compliance with the regulation because our staff person has the rest of the day to do paperwork.

Same as above

Teacher and SLP Caseload and Waiver Requirements Report in STARS

Teacher and SLP Caseload and Waiver Requirements v4



Snapshot Date: 2014-12-15 - 80D

Charters & Non-Charters

1 – 5: Information required to complete a waiver request

Staff Namea	Staff ID	Assignment Code	Contract FTE	Staff Loc	Student ID	A	AG	ASO	B	BG	BSO	C	CG	D	DG	Program	Grade	Primary Disability	Primary Setting	Student Loc ID	
Jane Doe	000	97	1.00		xxxxx1									X			09	AU	SA02	xx1	
					xxxxx2								X			10	ED	SA02	xx1		
					xxxxx3								X			11	MD	SA02	xx1		
					xxxxx4								X			12	OHI	SA02	xx1		
					xxxxx5								X			09	MD	SA02	xx1		
					xxxxx6								X			10	ED	SA02	xx1		
					xxxxx7								X			11	ID	SA02	xx1		
					xxxxx8								X			12	TBI	SA02	xx1		
					xxxxx9								X			10	OI	SA02	xx1		
						0	0	0	0	0	0	0	0	9	0	0					
						0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1.13	0.00	0.00					
																				Caseload FTE:	1.13
																				Contract FTE:	1.00
																				Waiver Required	-0.13

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

PED Tracking Number _____						Number of Students in Each Level of Service					Total # of Students =	FTE Calculation =	RATIONALE/JUSTIFICATION FOR REQUEST: 1. Explain <u>what you want to do</u> and <u>how a waiver will help you?</u> Include how the waiver's overall <u>intent fits into school and district policy.</u> 2. <u>Identify</u> any <u>supporting documentation on file.</u>	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)	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?	
EMPLOYEE NAME	Contract FTE	Adjusted Contract FTE	Position Code	This teacher is rated as highly qualified:		Minimum	Moderate	Extensive	Maximum	3Y / 4Y						
				YES	NO	A	B	C	D							
1 Jane Doe	3 1.00		2 97			0	0	0	9	0	9	5 1.13				

SAMPLES: Completing the Justification and Plans of Action Sections

RATIONALE/JUSTIFICATION FOR REQUEST:

1. Explain what you want to do and how a waiver will help you? Include how the waiver's overall intent fits into school and district policy.
2. Identify any supporting documentation on file.

*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 steps will the district take to properly staff the district and insure compliance 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 steps will the district take to insure FAPE 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.
- € If case load is not over the staff's allocated FTE, **DO NOT** submit a request.
- € Double and cross-check data.

What happens next?

- €Implement 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

- €Waiver Requests will be monitored and tracked by the SEB

- €School Budget may contact LEA if waiver requests continue into a 2nd year.

- €Licensing Bureau will be validating position codes

Considerations *Continued*:

- €SEB EA has discretion to recommend waivers for denial to the Secretary

- €Substitutes and Alternative Licensing Options

- €Preschool Caseload

 - € Speech Only Students vs. Other Special Needs

- €Gifted Caseload

“Waivers should be the
exception **NOT** the norm”



Special Education Bureau:

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Santa Fe, NM 87501

Phone: (505) 827 – 1457

Fax: (505) 954 – 0001

For questions or support
please contact your SEB EA

THANK YOU