



# California State Board of Education Policy

POLICY #
03-01
DATE
May 2004

## WAIVER GUIDELINES

### Federal Waiver – Safe and Drug Free School Innovative Programs Under NCLB

REFERENCES: Authority: “No Child Left Behind Act” (NCLB) Title IV, Part A, Section 4115 (a)(3)
HISTORICAL NOTES 2002 HR 1 “No Child Left Behind” authorized several waivers to be approved by the “SEA” Adopted July 2003, revised May 2004.

#### Federal Section involved:

No Child Left Behind Act (NCLB) Title IV, Part A, Section 4115 (a)(1)(C): For a program or activity developed pursuant to this subpart to meet the principles of effectiveness, such program or activity shall be based on scientifically based research that provides evidence that the program to be used will reduce violence and illegal drug use.

#### Federal Waiver Authority:

No Child Left Behind Act (NCLB) Title IV, Part A, Section 4115 (a)(3): A local educational agency may apply to the State for a waiver of the requirement of subsection (a)(1)(C) to allow innovative activities or programs that demonstrate substantial likelihood of success.

#### Background:

The United State Department of Education issued *Guidance for State and Local Implementation of SDFSC Programs* with the following frequently asked question:

***“May an LEA apply for a waiver of the requirement to implement programs that are scientifically based?”***

***Consistent with Section 4115(a)(3) of the SDFSCA, LEAs may apply to their SEA for a waiver of the requirement to implement programs that are scientifically based. However, LEAs applying for waivers must demonstrate that funded programs or activities are innovative and have a substantial likelihood of success. The Department encourages SEAs, in considering requests for waivers, to apply criteria that will permit the implementation of services and activities highly likely to be successful. For example, SEAs may want to consider to what extent proposed programs address the elements of the definition of scientifically based research.”***

In the NCLB, Title IX, Part A, Section 9105 (37) the term ‘scientifically based research’— (A) means research that involves the application of rigorous, systematic, and objective



procedures to obtain reliable and valid knowledge relevant to education activities and programs; and (B) includes research that—

- (i) employs systematic, empirical methods that draw on observation or experiment;
- (ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
- (iii) relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;
- (iv) is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;
- (v) ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and
- (vi) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

Safe and Drug Free Schools and Communities (SDFSC) funds must be used to support programs or activities that effectively reduce alcohol, tobacco, or other drug use or violence, based on evidence provided by scientific research. The Local Educational Agency Plan (LEAP) requires the Local Educational Agency (LEA) to use one or more science-based programs recognized for effectively preventing alcohol, tobacco, or other drug use or violence. The California Department of Education maintains up-to-date lists of authorized science-based and promising programs on its Web site at: <http://www.cde.ca.gov/re/lr/wr/waiverpolicies.asp>

LEAs must submit a waiver to use SDFSC funds to support any of the promising programs listed in the Department’s list of promising programs or to support any program not otherwise listed by the Department as a science-based program.

The programs listed as promising are often not afforded top recognition because such programs do not yet have sufficient scientific support to meet criteria set for “effective” status. In some cases such programs were not evaluated in multiple trials or have not yet collected longitudinal data. The chance that promising programs will prove to be effective when used is less than for the science-based programs listed by the Department. When a promising program is implemented, there must be a commitment to conduct an outcome evaluation. The LEA using a promising program under waiver will need to contact program providers or developers and volunteer to take part in any clinical evaluation or research designed to evaluate the program’s effectiveness.

**Waiver Guidelines**

The LEA must apply for a waiver of NCLB, Title IV, Part A, Section 4115 (a)(1)(C) to use SDFSC funds to support the cost of any promising program listed by the Department, or any



other program **not** listed as science-based by the Department. If approved, this waiver will allow the LEA to use such funds to support the cost of an innovative program that demonstrates substantial likelihood of success. The innovative program covered by the waiver should be taking part in scientifically based research as defined in NCLB Section 9105. The developers or publishers of the program must commit to submitting the program for review by one of the agencies cited in the Department’s list of science-based programs that use a rigorous process to recognize science-based programs. Biennial waiver renewal will be based on adequate progress being made towards submitting the program for such a review.

**Required Documentation:**

Waiver approval will be based on the extent to which proposed programs address the elements of scientifically based research as defined in the NCLB. Since the State Board of Education’s authority to grant a waiver is based on an innovative program demonstrating substantial likelihood of success, a waiver request must address the following three criteria:

1. Is the program innovative? Provide a description of the program’s target population, activities, lessons, or strategies sufficient to establish that the program is innovative relative to other commonly used prevention programs. Provide a time line and history of program development or implementation to establish that the program is innovative in terms of being a new program. Provide a rationale for why the applicant believes the program is innovative and deserving of evaluation.
2. Does the program demonstrate substantial likelihood of success? Provide a rationale for why the applicant believes the program has substantial likelihood of success for preventing alcohol, tobacco, or other drug use or violence. Describe outcome measures based on preliminary or concurrent program evaluation. If an evaluation report is available from program developers or publishers, then the applicant may cite information from the report or attach the report to the application.
3. Describe the program developer’s or publisher’s plan and timeline for submitting the program for review and recognition by one of the following reputable groups: California Healthy Kids Resource Center: Research-Validated Programs; University of Colorado: Blueprints; Center for Substance Abuse Prevention: Model Programs; or United States Department of Education: Expert Panel. The description should establish the applicant’s commitment to supporting the scientific evaluation of the program and willingness to take part in clinical trials designed to measure program effectiveness. A report describing adequate progress for submitting the program for recognition as a science-based program must be annually submitted to the California Healthy Kids Program Office.

**Who Should Apply:**

Applicants who want to support the evaluation or clinical trial of prevention programs that are genuinely innovative and that are committed to demonstrating substantial likelihood of success for preventing alcohol, tobacco, or other drug use or violence. The program must be subject to



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Policy #03-01

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scientifically based research with the intent to submit the program for review to be added to the lists of recognized science-based programs.

**Period of Request:**

Waivers will be granted for a maximum of two years, contingent upon the LEA submitting an annual report describing adequate progress, as noted in Item 3 above. A previously approved waiver may be submitted for renewal.