

California Department of Education

Executive Office

SBE-005 (REV. 1/2021)

General Waiver

# California State Board of Education November 2022 Agenda Item #W-06

## Subject

Request by **Gonzales Unified School District** to waive *California Code of Regulations,* Title 5, Section 3043(d), which requires a minimum of 20 school days for an extended school year (summer school) for students with disabilities.

## Waiver Number

* 5-7-2022

## Type of Action

Action, Consent

## Summary of the Issue(s)

One local educational agency (LEA) requests to provide instruction in fewer than the 20 school days required by law for extended school year (ESY). The one LEA proposes an alternate schedule that will allow them to provide the minimum number of hours required, but in fewer days.

ESY is the term for the education of students with disabilities “between the close of one academic year and the beginning of the next,” similar to summer school. The ESY must be provided for each student with a disability whose individualized education program (IEP) requires it. LEAs may request a waiver to provide an ESY program for fewer days than the traditional mode.

## Authority for Waiver

*Education Code (EC)* Section 33050

## Recommendation

* Approval: No
* Approval with conditions: Yes
* Denial: No

The California Department of Education recommends the State Board of Education (SBE) approve the request from one LEA to provide ESY services for fewer than 20 days with the condition school day hours are consistent with those provided to the general education enrollment at the same grade level unless an IEP specifies otherwise. Also, special education and related services offered during the ESY period must be comparable in standards, scope, and quality to the special education program offered during the regular academic year as required by *California Code of Regulations (CCR),* Title 5, Section 3043.

## Summary of Key Issues

### Gonzales Unified School District (GUSD)

The GUSD is requesting a waiver to modify the required Special Education ESY from 20 days to 14 days. The GUSD ESY will utilize a 14-day schedule of 6 instructional hours per day, totaling 84 hours of in-person instruction. In order to streamline local agency operations the GUSD will run the full-day ESY program concurrent with the full-day summer program. The GUSD indicates that running both the ESY and the full-day summer program simultaneously benefits the district in areas such as staffing, facilities, and general operations.  Additionally, the GUSD has found that having the ESY at the same time as the general education summer program positively impacts special education students by allowing more opportunity to include them with their same-age peers on the same campus.

Demographic Information: The GUSD has a student population of 2,181 and is located in a rural area in Monterey County.

**Because these are general waivers, if the SBE decides to deny the waivers, it must cite one of the seven reasons in *EC* Section 33051(a), available on the California Legislation Information Web page at** <http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=33051.&lawCode=EDC>.

## Summary of Previous State Board of Education Discussion and Action

In the past, the SBE approved waivers to allow school districts to provide the required minimum amount of instruction in fewer days during the ESY for students with disabilities.

## Fiscal Analysis (as appropriate)

There is no statewide fiscal impact of waiver approval. However, in order for an LEA to qualify for average daily attendance (ADA) revenues for extended year pupils, LEAs must comply with the ADA requirements in *CCR*, Title 5, Section 3043(f).

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Gonzales Unified School District General Waiver Request   
  1-1-2021 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

*California Code of Regulations,* Title 5, Section 3043(d)

| Waiver Number | District | Period of Request | District’s Request | CDE Recommendation | Bargaining Unit Representatives Consulted, Date and Position | Local Board and Public Hearing Approval | Penalty Without Waiver |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 5-7-2022 | Gonzales Unified School District | **Requested:**  June 13, 2022, to July 15, 2022  **Recommended:**  June 13, 2022, to July 15, 2022 | To provide a 14-day extended school year (ESY) program instead of a 20-day ESY program | Approval with conditions to allow the local educational agency (LEA) to provide a 14-day ESY program instead of a 20-day ESY program | Gonzales Teachers Association, Sangeeta Patel / Bargaining Team Member 5/20/2022 Support | 5/24/2022 | The LEA may not provide a 14-day ESY program |

# Attachment 2: Waiver 5-7-2022 Gonzales Unified School District

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 2775473

Waiver Number: 5-7-2022

Active Year: 2022

Date In: 7/18/2022 9:21:48 AM

Local Education Agency: Gonzales Unified

Address: 600 Elko St.

Gonzales, CA 93926

Start: 6/13/2022

End: 7/15/2022

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Special Education Program

Ed Code Title: Extended School Year (Summer School)

Ed Code Section: *CCR*, Title 5, Section 3043(d)

Ed Code Authority: IDEA

*Education Code* or *CCR* to Waive: *CCR*, Title 5, Section 3043(d)

Outcome Rationale: This waiver request is for the 15 students who are eligible for special education Extended School Year (ESY) services as written in the students Individual Education Plan (IEP) at the Gonzales Unified School District. Typically, per *CCR*, Title 5, Section 3043(d), we have provided students 20 (4-hour) days of ESY which total 80 minutes of services. For this school year, we are making a request to waive this requirement, since we are running a full-day summer program with the intent of concurrently running a full day ESY program on the following dates: June 17, 21 to 24, 27 to 30, July 1, July 5 to 8. The instructional day is from 8 am to 2 pm (6 hours), and will run for 14 days, for a total of 84 minutes of ESY services.

Student Population: 15

City Type: Rural

Public Hearing Date: 5/24/2022

Public Hearing Advertised: email, posted on district office and school site office

Local Board Approval Date: 5/24/2022

Community Council Reviewed By: DAC\_DELAC Parent Community Committee

Community Council Reviewed Date: 2/9/2022

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Mr. Eric Olsen

Position: Director of Special Education

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Fax:

Bargaining Unit Date: 05/20/2022

Name: Gonzales Teachers Association

Representative: Sangeeta Patel

Title: Bargaining Team Member

Phone: 8316753663

Position: Support

Comments: