

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of Education March 2023 AgendaItem #W-11

## Subject

Requests by **San Joaquin County Office of Education** to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of

July 1, 2009, to allow Kristy Jamieson and Vanessa Abrego to continue to provide services to students until August 2, 2023, under a remediation plan to complete those minimum requirements.

## Waiver Numbers

* 4-11-2022
* 5-11-2022

## Type of Action

Action, Consent

## Summary of the Issue(s)

The State Board of Education (SBE) must determine if Kristy Jamieson and

Vanessa Abrego qualify for an educational interpreter waiver to provide educational interpreting services until August 2, 2023. San Joaquin County Office of Education (SJCOE) hired Ms. Jamieson in August of 2022, with a pre-hire Educational Interpreter Performance Assessment (EIPA) score of 3.7. Ms. Jamieson took another EIPA exam on June 30, 2022. She has not gotten her results as of November 11, 2022.

Ms. Abrego took the EIPA exam for the first time on June 2, 2022. She received a pre-hire score of 3.4. SJCOE hired her in August of 2022.

According to the EIPA website testing availability varies by state. Some states, including California, have multiple testing centers, and different testing centers have different timelines. Ms. Jamieson and Ms. Abrego took the EIPA examination at different sites within California. Therefore, their assessment team’s evaluation timelines are different.

## Authority for Waiver

California *Education Code (EC)* Section 33050

## Recommendation

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

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the waiver requests by the county office of education with the following conditions:

The SJCOE must provide Ms. Jamieson with regular access to a lead education interpreter who is Registry Interpreters for the Deaf (RID)-certified holding both National Interpreter Certification (NIC) and Education kindergarten through grade twelve (K–12) certifications. The lead interpreter has been and will continue to offer regular support in the form of:

1. Mentor(s) that meets the certification of an Educational Sign Language Interpreter; the SJCOE is also providing one-on-one mentoring and tutoring on an ongoing basis. The mentor(s) is calling Ms. Jamieson through videophone to practice active communication with voice, review testing comments and clarify needs, critique and support videos of her, as well as testing result comments, and observe and support her in her interpreting. The mentor(s) is communicating with Ms. Jamieson on a weekly basis, as needed.
2. Ms. Jamieson is observing other interpreters during class times and creates videos of herself interpreting lessons for self-evaluation. She has been reviewing various blogs and vlogs about American Sign Language (ASL) grammar and syntax, and views practice ASL videos to increase her reception abilities.
3. The SJCOE will continue to provide monthly updates to the CDE for the duration of the waiver.

The SJCOE must provide Ms. Abrego with regular access to a lead education interpreter who is RID-certified holding both NIC and Education K–12 certifications. The lead interpreter has been and will continue to offer regular support in the form of:

1. Mentor(s) that meets the certification of an Educational Sign Language Interpreter; the SJCOE is also providing one-on-one mentoring and tutoring on an ongoing basis. The mentor(s) is calling Ms. Abrego through videophone to practice active communication with voice, review testing comments and clarify needs, critique and support videos of her, as well as testing result comments, and observe and support her in her interpreting. The mentor(s) is communicating with Ms. Abrego on a weekly basis, as needed.
2. Ms. Abrego is observing other interpreters during class times and creates videos of herself interpreting lessons for self-evaluation. She has been reviewing various blogs and vlogs about ASL grammar and syntax, and views practice ASL videos to increase her reception abilities.
3. The SJCOE will continue to provide monthly updates to the CDE for the duration of the waiver.

## Summary of Key Issues

The Individual with Disabilities Education Improvement Act of 2004 (IDEIA 2004) requires that interpreters for pupils who are Deaf or Hard of Hearing meet state-approved or state-recognized certification, registration, or other comparable requirements, as defined in the *Code of Federal Regulations*, Title 34, Section 300.156(b)(1).

To meet this federal requirement, the *California Code of Regulations*, Section 3051.16(b)(3) requires the following:

By July 1, 2009, and thereafter, an educational interpreter shall be certified by

the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the Educational Interpreter Performance Assessment (EIPA), the Educational Sign Skills Evaluation-Interpreter/Receptive (ESSE-I/R), or the National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment. If providing Cued Language transliteration, a transliterator shall possess Testing/Evaluation and Certification Unit (TECUnit) certification, or have achieved a score of 4.0 or above on the EIPA – Cued Speech.

**Assessment Overview**:

According to the EIPA Rating System web page at <https://www.classroominterpreting.org/eipa/performance/rating.asp>, Ms. Jamieson, whose most recent EIPA score is 3.7, and Ms. Abrego, whose most recent EIPA score is 3.4, “require continued supervision and should be required to participate in continuing education in interpreting.” According to the EIPA Rating System, the current scores indicate that these educational interpreters:

“Demonstrates knowledge of basic vocabulary, but will lack vocabulary for more technical, complex, or academic topics.” The individuals are “able to sign in a fairly fluent manner using some consistent prosody, but pacing is still slow with infrequent pauses for vocabulary or complex structures. Sign production may show some errors but generally will not interfere with communication. Grammatical production may still be incorrect, especially for complex structures, but is in general intact for routine and simple language. Comprehends signed messages but may need repetition and assistance. Voiced translation often lacks depth and subtleties of the original message. An individual at this level would be able to communicate very basic classroom content, but may incorrectly interpret complex information resulting in a message that is not always clear.”

**San Joaquin County Office of Education:**

After hiring Ms. Jamieson and Ms. Abrego, SJCOE still has four vacant Educational Sign Language Interpreters positions available. This position has been posted continuously for approximately three years; they have attempted to recruit individuals at every available opportunity. The lack of testing during the COVID-19 pandemic and the complexity of the examination has added to the lack of qualified candidates. They were able to recruit two viable candidates this year. They have been filling positions contracted through an agency. SJCOE is applying for a waiver as their employees attempt to pass the examination meeting the 4.0 score required by *EC* and they are committed to helping Ms. Jamieson and Ms. Abrego achieve the score of 4.0 when they take their next EIPA examination. Testing appointments have been limited due to COVID.

**Demographic Information:**

SJCOE has a student population of 1,000 and is located in the suburban area of San Joaquin.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a), available at** <http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051>

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

In 2002, the SBE approved regulations that required educational interpreters to be certified by the RID, or equivalent, by January 1, 2007. As of July 1, 2009, they have been required to be certified by the RID, or equivalent, or to have achieved a score of 4.0 or better on specified assessments.

In November 2009, the SBE approved a policy regarding educational interpreter waiver requests. SBE Policy #09-02 can be found at

<http://www.cde.ca.gov/re/lr/wr/documents/interpreter_000.doc>.

## Fiscal Analysis (as appropriate)

There is no statewide fiscal impact of waiver approval.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** San Joaquin County Office of Education General Waiver Request 4-11-2022 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** San Joaquin County Office of Education General Waiver Request 5-11-2022 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 4:** SJCOE Job Description, POSITION TITLE: Educational Sign Language Interpreter/Tutor #2237, a copy of which is available via the World Wide Web at <https://www.sjcoe.org/JobDescriptions/classified2/Educational%20Sign%20Language%20Interpreter%20Tutor%202237-1.pdf> (3 pages). (A copy of this document is on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 41402

| **Waiver Number** | **District** | **Period of Request** | **District’s Request** | **Bargaining Unit Representatives Consulted, Date and Position** | **Local Board and Public Hearing Approval** |
| --- | --- | --- | --- | --- | --- |
| 4-11-2022 | San Joaquin County Office of Education  | **Requested:**8/2/2022 to 8/2/2023**Recommended:**8/2/2022 to 8/2/2023  | Educational Waiver for Kristy Jamieson | California School Employees AssociationChapter #755 Hernan MendozaPresident11/10/2022**Support** | A Public hearing was posted several places at the San Joaquin County Office of Education 6/9/2022 Local Board9/8/2022**Support** |
| 5-11-2022 | San Joaquin County Office of Education | **Requested:**8/2/2022 to 8/2/2023**Recommended:** 8/2/2022 to 8/2/2023 | Educational Waiver forVanessa Abrego | California School Employees AssociationChapter #755 Hernan MendozaPresident11/10/2022**Support**  | A Public hearing was posted several places at the San Joaquin County Office of Education 6/9/2022 Local Board9/8/2022**Support**  |

Created by California Department of Education
January 2023

# Attachment 2: San Joaquin County Office of Education General Waiver Request 4-11-2022

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 3910397

Waiver Number: 4-11-2022

Active Year: 2022

Date In: 11/16/2022 4:23:50 PM

Local Education Agency: San Joaquin County Office of Education

Address: 2922 Transworld Dr.

Stockton, CA 95206

Start: 8/2/2022

End: 8/2/2023

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Special Education Program

Ed Code Title: Educational Interpreter for Deaf and Hard of Hearing

Ed Code Section: CCR, Title 5 Section 3051.16(b)(3)

Ed Code Authority: 33050-33053

**Education Code or CCR to Waive:**

5 CCR, Section 3051.16. [(c) An educational interpreter shall be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the Educational Interpreter Performance Assessment (EIPA), the Educational Sign Skills Evaluation-Interpreter and Receptive (ESSE-I/R), or the National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment. If providing Cued Language transliteration, a transliterator shall possess Testing/Evaluation and Certification Unit (TECUnit) certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech]

Outcome Rationale: After Hiring the person listed below, we will still have 4 vacant Educational Sign Language Interpreters positions available. This position has been posted continuously for approximately 3 years, we have attempted to recruit individuals at every available opportunity. The lack of testing and the complexity of the Exam has added to the lack of qualified candidates. We were able to recruit two viable candidates this year. We have been filling positions contracted through an agency. We are applying for a waiver as our employees attempt to pass the Exam, meeting the 4.0 score required by Education Code.

Student Population: 1000

City Type: Suburban

Public Hearing Date: 6/9/2022

Public Hearing Advertised: Posted onsite - see attached notice

Local Board Approval Date: 9/8/2022

Community Council Reviewed By: Community Advisory Committee (CAC) SELPA of San Joaquin County Office of Education

Community Council Reviewed Date: 9/8/2022

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Ms. Aggie Christensen

Position: Director I

E-mail: achristensen@sjcoe.net

Telephone: 209-468-9039

Fax: 209-468-9226

Bargaining Unit Date: 11/10/2022

Name: California Schools Employees Association

Representative: Hernan Mendoza

Title: Chapter president

Phone: 209-666-7046

Position: Support

Comments:

# Attachment 3: San Joaquin County Office of Education General Waiver Request 5-11-2022

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 3910397

Waiver Number: 5-11-2022

Active Year: 2022

Date In: 11/16/2022 4:38:06 PM

Local Education Agency: San Joaquin County Office of Education

Address: 2922 Transworld Dr.

Stockton, CA 95206

Start: 8/2/2022

End: 8/2/2023

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Special Education Program

Ed Code Title: Educational Interpreter for Deaf and Hard of Hearing

Ed Code Section: CCR, Title 5 Section 3051.16(b)(3)

Ed Code Authority: 33050-33053

Education Code or CCR to Waive:

5 CCR, Section 3051.16. [(c) An educational interpreter shall be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the Educational Interpreter Performance Assessment (EIPA), the Educational Sign Skills Evaluation-Interpreter and Receptive (ESSE-I/R), or the National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment. If providing Cued Language transliteration, a transliterator shall possess Testing/Evaluation and Certification Unit (TECUnit) certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech]

Outcome Rationale: After Hiring the person listed below, we will still have 4 vacant Educational Sign Language Interpreters positions available. This position has been posted continuously for approximately 3 years, we have attempted to recruit individuals at every available opportunity. The lack of testing and the complexity of the Exam has added to the lack of qualified candidates. We were able to recruit two viable candidates this year. We have been filling positions contracted through an agency. We are applying for a waiver as our employees attempt to pass the Exam, meeting the 4.0 score required by Education Code.

Student Population: 1000

City Type: Suburban

Public Hearing Date: 6/9/2022

Public Hearing Advertised: Posted onsite - see attached notice

Local Board Approval Date: 9/8/2022

Community Council Reviewed By: Community Advisory Committee (CAC) SELPA of San Joaquin County Office of Education

Community Council Reviewed Date: 9/8/2022

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Ms. Aggie Christensen

Position: Director I

E-mail: achristensen@sjcoe.net

Telephone: 209-468-9039

Fax: 209-468-9226

Bargaining Unit Date: 11/10/2022

Name: California Schools Employees Association

Representative: Hernan Mendoza

Title: Chapter president

Phone: 209-666-7046

Position: Support

Comments: