

California Department of Education

Executive Office

SBE-005 (REV. 1/2021)

General Waiver

# California State Board of Education September 2023 Agenda Item #W-03

## Subject

Request by **Amador County 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

7-3-2023

## Type of Action

Action, Consent

## Summary of the Issue(s)

The local educational agency (LEA) requested to provide instruction in fewer than the 20 school days required by law for extended school year (ESY). The LEA had an alternate schedule that allowed 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 a 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: Yes
* Approval with conditions: No
* Denial: No

The California Department of Education (CDE) recommends the State Board of Education (SBE) approve the request from the LEA to provide ESY services for fewer than 20 days, from June 5, 2023, to June 26, 2023. The CDE recommends no conditions at this time since this waiver is retroactive and the LEA met all the conditions that the CDE would have recommended as a condition of approval of the waiver, as described below. Specifically, the CDE has verified that school day hours were consistent with those provided to the general education enrollment at the same grade level unless an IEP specifies otherwise, and that special education and related services offered during the ESY period were 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

### Amador County Unified School District

The Amador County Unified School District (ACUSD) requested a reduced ESY program schedule that allowed the district to operate their program for a total of 15 days from June 5, 2023 to June 26, 2023. The ACUSD stated that the district has a modified, year-round program for their students and a shortened ESY program is more conducive for students and staff. The ACUSD stated that parents, students, and staff support the shortened ESY schedule as they have found it difficult to have families commit to a 20-day ESY program. In addition, the ACUSD stated that it is difficult to staff a 20-day ESY program because it can impede the staff’s ability to take much-needed time away to re-energize before returning for a new school year in early August.

The CDE verified that ACUSD’s program operated for 6 hours per day, five days per week (Monday through Friday) totaling 90 hours. This is more hours than if the ACUSD provided the ESY program for 20 days. CDE verified that the 6 hours per day of the ESY program aligned with ACUSD’s general education summer school program hours.

In the ESY Waiver Application, the ACUSD listed one Bargaining Unit (California School Employees Association; Amador Unified #239) and inadvertently omitted the California Teachers Association (CTA) Chapter.  When CDE inquired during the verification process, the ACUSD provided the CDE with the appropriate documentation to show support of the Amador County Teachers Association (ACTA).  The ACUSD has asked that the CDE include the additional CTA information in the SBE Waiver Summary.

**Demographic Information**: The ACUSD has a student population of 4,000 students and is located in a rural area in Amador 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:** Amador County Unified School District General Waiver Request 7-3-2023 (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 |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 7-3-2023 | Amador County Unified School District | **Requested:**  June 5, 2023, to June 26, 2023  **Recommended:**  June 5, 2023, to June 26, 2023 | To provide a 15-day extended school year (ESY) program instead of a 20-day ESY program | Retroactive approval with no conditions as the CDE has verified that the local educational agency (LEA) has provided a 15-day ESY program instead of a 20-day ESY program. | Sara Crowe, President;  California School Employees Association; Amador Unified #239;  January 17, 2023  Support.  Scott Hunkins, President;  California Amador County Teachers Association;  March 29, 2023  Support. | March 8, 2023 | The LEA may not provide a 15-day ESY program |

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# Attachment 2: Waiver 7-3-2023 Amador County Unified School District

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 0310033

Waiver Number: 7-3-2023

Active Year: 2023  
Date In: 3/9/2023 10:03:31 AM

Local Education Agency: Amador County Office of Education  
Address: 217 Rex Ave.  
Jackson, CA 95642

Start: 6/5/2023   
End: 6/26/2023

Waiver Renewal: No

Waiver Topic: Special Education Program  
Ed Code Title: Extended School Year (Summer School)   
Ed Code Section: 33050  
Ed Code Authority: EC 33050 (a) (1) through 23

Education Code or CCR to Waive: CCR, Title 5, Section 3043 (d) requires an extended school year program be provided for a minimum of 20 instructional days, including holidays, for special education students who qualify with mild to moderate to severe disabilities.

Outcome Rationale: Amador Office of Education and the District offers a modified, year round schedule for our students. Parents, students, and staff support the shortened ESY schedule as it is difficult to have families attend a 20 day ESY program. It is also difficult to staff a 20 day ESY program, because it impedes families and staff's ability to take a much needed time away to re energize before returning for a new school year in early August. Therefore, we are seeking a waiver to reduce from 20 days to 15 for our ESY schedule.

Student Population: 4000

City Type: Rural

Public Hearing Date: 3/8/2023  
Public Hearing Advertised: Posted at sites, posted online through District we

Local Board Approval Date: 3/8/2023

Community Council Reviewed By: CAC, Community Advisory Council  
Community Council Reviewed Date: 2/15/2023  
Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Roy Morlan  
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Bargaining Unit Date: 01/17/2023  
Name: SEAC, CSEA, Amador Unified, #239  
Representative: Sara Crowe  
Title: President  
Phone: (916) 295-3911  
Position: Support