

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education May 2024 AgendaItem #W-06

## Subject

Request by **Esparto Unified School District** to waive California *Education Code* Section 52176(b), which requires the establishment of an English Learner Advisory Committee at any school site with more than 20 limited English proficiency students.

**Waiver Number**

1-11-2023

## Type of Action

Action, Consent

## Summary of the Issue(s)

California *Education Code* (*EC*) Section 52176(a) requires that school districts with more than 50 pupils of limited English proficiency (English learner [EL] students) establish a districtwide advisory committee, commonly referred to as a District English Learner Advisory Committee (DELAC), proportionally comprised of representative parents or guardians of EL students. In addition, *EC* Section 52176(b) requires that each school with more than 20 EL students establish a school-level advisory committee, commonly referred to as an English Learner Advisory Committee (ELAC).

Esparto Unified School District (EUSD) is requesting a waiver of the ELAC requirements at their three school sites, thereby only complying with the DELAC requirement as the EL advisory body pertaining to the school sites. The California Department of Education (CDE) recommends denial of this waiver request. The absence of an ELAC at the three EUSD school sites would result in non-compliance findings on a Federal Program Monitoring (FPM) review.

## Authority for Waiver

*EC* Section 33050

## Recommendation

Approval: No

Approval with conditions: No

Denial: Yes

The CDE recommends that the State Board of Education (SBE) deny theEUSD request to waive *EC* Section 52176(b), on the grounds that the appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request (*EC* Section 33051[a][3]), guarantees of parental involvement are jeopardized (*EC* Section 33051[a][5]), and the educational needs of pupils are not adequately addressed (*EC* Section 33051[a][1]).

## Summary of Key Issues

EL students at EUSD comprise nearly a third of its student enrollment. The local educational agency (LEA) is requesting a waiver of the ELAC requirements at three of its school sites. Specifically, the LEA requests a waiver of *EC* 52176(b), which requires that: “Each school with more than 20 pupils of limited English proficiency shall establish a school level advisory committee on which parents or guardians, or both, of such pupils constitute membership in at least the same percentage as their children and wards represent of the total number of pupils in the school. The school may designate for this purpose an existing school level advisory committee, or subcommittee of such an advisory committee, if the advisory committee, or subcommittee where appropriate, meets the criteria stated above.”

EUSD requests to utilize the district wide DELAC, required under *EC* 52176(a), as the representative advisory committee for the three school sites listed above rather than an ELAC at each site. In contrast to *EC* 52176(b), which applies to individual schools, *EC* 52176(a) applies to school districts. *EC* 52176(b) requires that “Each school district with more than 50 pupils of limited English proficiency shall establish a districtwide advisory committee on bilingual education. Parents or guardians, or both, of pupils of limited English proficiency who are not employed by the district shall constitute a majority of the committee, unless the district designates for this purpose an existing districtwide advisory committee on which parents or guardians, or both, of pupils of limited English proficiency have membership in at least the same percentage as their children and wards represent of the total number of pupils in the district, provided that a subcommittee on bilingual-bicultural education on which parents or guardians, or both, of pupils of limited English proficiency constitute a majority is established.” EUSD contends that its request to waive the *EC* 52176(b) school site advisory committee requirement is based on better efficiency and less administrative time consumed by having one singular meeting rather than conducting multiple meetings for each body. EUSD also asserts the decision-making process would be streamlined, allow better allocation of resources, and promote consistency in district policies and decisions.

EUSD’s proposal does not consider that under the Education Code, ELAC and DELAC serve two distinct purposes with two separate sets of requirements as they are applicable to school sites and school districts, respectively. EUSD’s proposal also does not address the importance of eliciting representative EL parent input on school site issues, nor does it consider the educational needs of EL students.

The ELAC advises school officials on EL programs at their respective school sites. Often, the ELAC comprises parents, staff, and community members or interest holders. EUSD does not address how it will continue to solicit and engage EL parents and families at the three school sites that are the subject of its waiver request, specifically around the site-level EL programs, and to ensure that the needs of EL pupils are adequately addressed.

During FPM reviews, school sites with 21 or more EL students must demonstrate, with evidence, that they have a functioning ELAC that meets the following requirements consistent with federal law (20 U.S. Code 6823) and state law (*EC* sections 52176[b][c], 62002.5; and Title 5, *California Code of Regulations* [5 *CCR*], Section 11308):

1. Parent members are elected by parents or guardians of EL students.
2. Parents of EL students constitute at least the same percentage of the committee membership as their children represent of the student body.
3. The ELAC shall be responsible for assisting in the development of the schoolwide needs assessment and ways to make parents aware of the importance of regular school attendance.
4. The ELAC shall advise the principal and staff in the development of a site plan for EL students and submit the plan to the school site council for consideration for inclusion in the School Plan for Student Achievement (SPSA).
5. The ELAC receives training materials and training, planned in full consultation with committee members, to assist members in carrying out their legal responsibilities.

A school may designate an existing school-level advisory committee, or subcommittee of such advisory committee, to fulfill the legal responsibilities of ELAC if the advisory body meets the criteria in paragraph “b” above. (*EC* Section 52176[b]; 5 *CCR* Section 11308[d]). Each ELAC must be provided with the opportunity to elect one member to the DELAC. (5 *CCR* Section 11308[b]).

Further, during FPM reviews, each LEA with 51 or more EL students must form a DELAC unless the district designates for this purpose a subcommittee of an existing districtwide advisory committee. Parents or guardians, or both, of EL students who are not employed by the district shall constitute a majority of the DELAC. Notably, the DELAC shall advise the school district governing board on all the following tasks:

1. Development of an LEA master plan, including policies, per the SBE EL Roadmap Policy, guiding consistent implementation of EL educational programs and services that takes into consideration the SPSAs.
2. Conducting of an LEA-wide needs assessment on a school-by-school basis.
3. Establishment of LEA program, goals, and objectives for programs and services for EL students per the SBE-adopted EL Roadmap Policy.
4. Development of a plan to ensure compliance with any applicable teacher and instructional aide requirements.
5. Review and comment on the LEA’s reclassification procedures.
6. Review and comment on the written notifications required to be sent to parents and guardians. (5 *CCR* Section 11308).
7. Under the local control funding formula, LEAs with at least 50 EL students and whose total enrollment includes at least 15 percent EL students must establish a DELAC, and that DELAC must carry out specific responsibilities related to the Local Control and Accountability Plan (LCAP), including providing input regarding the LEA’s existing language acquisition programs and language programs, and, where possible, the establishment of other such programs. If the DELAC acts as the ELAC under *EC* sections 52063(b)(1) and 52062(a)(2), the DELAC shall also review and comment on the development or annual update of the LCAP. (5 *CCR* Section 11301).

ELACs are intended to elicit parent input and discussion at each school site specific to the site and student community needs. EL parent members are also to be consulted by the School Site Committee when developing the SPSA. Since there is no existing ELAC at the schools, these consultations would not be able to take place. DELACs are intended to represent the interests of all school sites within a school district via a delegate from each ELAC. Their purpose is to work with the district on policy-related issues such as reclassification policies and procedures. The waiver request and documentation submitted by EUSD provide insufficient evidence that the requirements for ELAC are being met under their current meetings and committees.

Another relevant factor surrounding this waiver request is that EUSD is scheduled to undergo its first FPM between April 24 through April 26, 2024. Review of ELAC and DELAC as part of the FPM process requires LEAs to provide information on the activities and membership of the committees to determine whether the LEA is meeting the minimum legal requirements. Based on current information available in this waiver request and on the district website, an FPM EL review could result in findings in these areas. Corrective actions on similar findings would require an LEA to provide evidence of ELAC and DELAC meetings with agendas, sign-in sheets, and minutes for each ELAC and DELAC meeting or, if not available, demonstrate the LEA has initiated the legally required complementary ELAC and DELAC structures.

Moreover, waiving parents’ rights to participate on a site level ELAC removes their ability to influence the programs their children receive at the school. EUSD does not address that approval of this waiver request could be detrimental to the engagement of parents or guardians of EL students in this district and across the state by minimizing the involvement of EL parents in local decision-making in schools within their communities. Additionally, EUSD does not address how the educational needs of EL students at each school site would be adequately addressed.

*EC* 33051(a)(1) permits denial of a waiver request when the SBE specifically finds any of the following:

1. The educational needs of the pupils are not adequately addressed.
2. The waiver affects a program that requires the existence of a school site council and the school site council did not approve the request.
3. The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees.
4. Pupil or school personnel protections are jeopardized.
5. Guarantees of parental involvement are jeopardized.
6. The request would substantially increase state costs.
7. The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Here, the CDE recommends the SBE deny this waiver request from EUSD. Here, EUSD did not provide sufficient documentation of how it afforded appropriate councils or advisory committees, including bilingual advisory committees, an adequate opportunity to review the request or provide input, as such, it did not provide a written summary of any objections to the request from those councils or committees. Here, approval of the waiver would jeopardize guarantees of parental involvement at school sites, which is key to the educational success of all students, including multilingual families in the school community. In addition, EUSD does not address how the educational needs of EL students at each school site would be adequately addressed.

EUSD may benefit from the provision of technical assistance and support on how to develop and sustain ELACs and the DELAC. This support is available currently and will also be provided by their assigned Education Programs Consultant both during and after their April 2024 FPM Review.

**Demographic Information**

EUSD, in Yolo County, has a student population of 954 students, and 32.6 percent are EL students (Dataquest, 2022–23).

* Esparto Elementary School, 452 students, with 48 percent EL student enrollment
* Esparto Middle School: 215 students, with 25.1 percent EL student enrollment
* Esparto High School: 273 students, with 13.9 percent EL student enrollment

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

The SBE has approved waivers of this type before, but none has been requested since 2011. The last approved request of this type was in 2009 specifically involving nontraditional schools under different conditions.

## Fiscal Analysis:

Approval or denial of the waiver request will not have negative fiscal effects on any local or state agency.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Esparto Unified School District General Waiver Request Waiver 01-11-24 (3 of pages) (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 52176(b)

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| --- | --- | --- | --- | --- | --- |
| **Waiver Number** | **District** | **Period of Request** | **Bargaining Unit Representatives Consulted** | **Public Hearing and Board Dates** | **Advisory Committee Position** |
| 1-11-2023 | Esparto Unified School District (EUSD)CDS Code: 57726860000000 | **Requested:**Start: 8/9/2023 End: 6/1/2024This is part of categorical program monitoring.**CDE Recommends:**Denial | Bargaining Unit Date: 10/16/2023Name: CSEAJake Cunningham,CSEA President530-723-2158Position: SupportBargaining Unit Date: 10/25/2023Name: Esparto Teacher's UnionJennifer Crerar, ETA President916-206-5366Position: Support | Public Hearing 10/25/2023Local Board Approval10/25/2023 | Reviewed By: DELAC, Site Council Date: 11/7/2023No objections noted; approved motion |

Created by California Department of Education
May 2024

# Attachment 2: 01-11-24 Esparto Unified School District

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 5772686

Waiver Number: 1-11-2023

Active Year: 2023

Date In: 11/9/2023 10:25:20 AM

Local Education Agency: Esparto Unified

Address: 26675 Plainfield St.

Esparto, CA 95627

Start: 8/9/2023

End: 6/1/2024

Waiver Renewal: No

Waiver Topic: English Learner Advisory Committee

Ed Code Title: Shared with Multiple Schools

Ed Code Section: *EC* 52176(b)

Ed Code Authority: *EC* 33050

*Education Code* or *CCR* to Waive: b) Each school with more than 20 pupils of limited English proficiency shall establish a school level advisory committee on which parents or guardians, or both, of such pupils constitute membership in at least the same percentage as their children and wards represent of the total number of pupils in the school. The school may designate for this purpose an existing school level advisory committee, or subcommittee of such an advisory committee, if the advisory committee, or subcommittee where appropriate, meets the criteria stated above.

Outcome Rationale:

Streamlining Operations:

Reduced administrative burden: Managing a single DELAC instead of multiple ELACs will simplify administrative processes, reduce paperwork, and save time and resources.

Clearer communication: A single DELAC will facilitate clearer communication between EL parents and the school district, promoting more efficient and effective interactions.

Consistency in Decision-Making:

Centralized decision-making: A single DELAC will provide a centralized forum for discussing English learner issues, ensuring consistency in policies and decisions across the district.

Streamlined decision process: District-wide recommendations and decisions can be made more efficiently through a DELAC, potentially leading to faster implementation of support programs.

More Focused Support:

Targeted resources: A consolidated DELAC will enable the district to allocate resources more effectively based on district-wide needs rather than dealing with potentially varying needs at individual school sites.

Uniformity of support: A single DELAC will promote the development and implementation of consistent support strategies and programs district-wide.

Considerations for Student Achievement:

Improved alignment: Streamlined decision-making and resource allocation will enhance the alignment of support services for English learners, potentially benefiting student achievement.

Monitoring progress: The district will continue to closely monitor the progress of English learners to ensure that any changes in the advisory committee structure positively impact student outcomes.

Student Population: 951

City Type: Rural

Public Hearing Date: 10/25/2023

Public Hearing Advertised: Website, School site bulletin boards, public library board, Yolo County Office of Ed Board

Local Board Approval Date: 10/25/2023

Community Council Reviewed By: DELAC, SSC

Community Council Reviewed Date: 11/7/2023

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Dr. Christina Goennier

Position: Superintendent

E-mail: cgoennier@eusdk12.org

Telephone: 530-787-3446

Bargaining Unit Date: 10/16/2023

Name: CSEA

Representative: Jake Cunningham

Title: CSEA President

Phone: 530-723-2158

Position: Support

Bargaining Unit Date: 10/25/2023

Name: Esparto Teacher's Union

Representative: Jennifer Crear

Title: ETA President

Phone: 916-206-5366

Position: Support