

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education September 2021 Agenda Item #W-10

## Subject

Requests by **Santa Clara County Office of Education** for renewals to waive *California Code of Regulations*, Title 5, Section 3051.16(c), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Rebecca Alcantra, and Yolanda Cortes to continue to provide services to students until June 30, 2022, under a remediation plan to complete those minimum requirements.

## Waiver Number

* Santa Clara County Office of Education 20-6-2021
* Santa Clara County Office of Education 22-6-2021

## Type of Action

Action, Consent

## Summary of the Issue(s)

The State Board of Education (SBE) must determine if Ms. Rebecca Alcantra and Ms. Yolanda Cortes qualify for an educational interpreter waiver to provide educational interpreting services until June 30, 2022.

## Authority for Waiver

*Education Code (EC)* Section 33050

## Recommendation

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

The California Department of Education (CDE) recommends that the SBE approve the renewal waiver request by the Santa Clara County Office of Education (SCCOE) with the following conditions:

* Weekly meetings with a Registry of Interpreters for the Deaf (RID) certified interpreter to practice and improve their skills.
* Regular opportunities to shadow a RID certified interpreter in mainstream classes.
* Opportunities to observe Individualized Education Program (IEP) meetings to observe a RID certified interpreter interpreting and get feedback on their interpreting skills.
* Monthly meetings with the SCCOE to discuss training needs, and additional training options to ensure candidates feel supported.
* Provide access to training materials (in person and virtually).
* Facilitate attendance at seminars and workshops to enhance their interpreting ability.
* Ms. Alcantra and Ms. Cortes re-take the Educational Interpreter Performance Assessment (EIPA) exam as soon as possible, when the Assessment Centers reopen. Currently, Assessment Centers are closed due to COVID-19. Candidates will apply to take the EIPA assessment at the Testing Center within their geographic location.

When scores become available, the SCCOE must provide the CDE with the new EIPA assessment scores.”

## Summary of Key Issues

The Individuals with Disabilities Education Act (IDEA) 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 Title 34 of the *Code of Federal Regulations*, Section 300.156(b)(1).

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

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

**Santa Clara County Office of Education, Rebecca Alcantra (20-6-2021)**

Santa Clara County Office of Education (SCCOE) operates a Deaf and hard of hearing program in Santa Clara county and serve approximately 1,374 students who use American Sign Language (ASL) to communicate. In order to meet graduation requirements, students need to access mainstream classes and depend on interpreters to do so.

This is a renewal waiver from the SCCOE for Rebecca Alcantra. It has been a challenge for the SCCOE to recruit and retain the number of certified Education Interpreters needed to support their student population, resulting in a consistent shortage. This shortage has led SCCOE to requst a waiver for the individual named in the submission, Rebeca Alcantra. The events of the COVID-19 pandemic brought challenges to individuals seeking to participate in certification exams, therefore the SCCOE seeks to obtain a renewal of the waiver.

Ms. Alcantra has ASL skills and the motivation for certification. Approval of the waiver will help to relieve the shortage and allow SCCOE to support their students while continuing to support Ms. Alcantra to prepare for certification. On May 21, 2019, Ms. Alcantra attained a score of OK to Hire on the EIPA.

**Santa Clara County Office of Education, Yolanda Cortes (22-6-2021)**

Santa Clara County Office of Education (SCCOE) operates a Deaf and hard of hearing program in Santa Clara county and serve approximately 1,374 students who use ASL to communicate. In order to meet graduation requirements, students need to access mainstream classes and depend on interpreters to do so.

This is a renewal waiver from the SCCOE for Yolanda Cortes. It has been a challenge for the SCCOE to recruit and retain the number of certified Education Interpreters needed to support their student population, resulting in a consistent shortage. This shortage has led SCCOE to requst a waiver for the individual named in the submission, Yolanda Cortes. The events of the COVID-19 pandemic brought challenges to individuals seeking to participate in certification exams, therefore the SCCOE seeks to obtain a renewal of the waiver.

Ms. Cortes has ASL skills and the motivation for certification. Approval of the waiver will help to relieve the shortage and allow SCCOE to support their students while continuing to support Ms. Cortes to prepare for certification. On May 20, 2019, Ms. Cortes attained a score of OK to Hire on the EIPA.

### Demographic Information:

Santa Clara County Office of Education (SCCOE) operates a Deaf and hard of hearing program in Santa Clara county and serve approximately 1,374 students who use American Sign Language to communicate.

**Because this is a general waiver, if the State Board of Education 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. That policy is on the CDE Web site at <https://www.cde.ca.gov/re/lr/wr/documents/interpreter.docx>.

The SBE has granted the SCCOE four previous waivers for Deaf and Hard of Hearing Interpreters. These waivers did identify the same staff on one occasion. The SCCOE makes successful attainment of a passing score of 4.0 on the EIPA a condition of continued employment in the position of interpreter.

## Fiscal Analysis (as appropriate)

There is no statewide fiscal impact of waiver approval.

## Attachment(s)

* **Attachment 1:** Summary Table (1 pages)
* **Attachment 2:** Santa Clara County Office of Education General Waiver Request 20-6-2021 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Santa Clara County Office of Education General Waiver Request 22-6-2021 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

*CCR*, Title 5 Section 3051.16(c)

| **Waiver Number** | **Local Educational Agency** | **Period of Request** | **Bargaining Unit Representatives Consulted, Date and Position** | **Local Board and Public Hearing Approval** |
| --- | --- | --- | --- | --- |
| 20-6-2-2021 | Santa Clara County Office of Education | **Requested:**  July 1, 2021 to  June 30, 2022  **Recommended:**  September 10, 2021 to June 30, 2022 | Service Employees International Union (SEIU)  Sarah Gianocaro,  Chapter President of SEIU Local 521  June 8, 2021  **Support** | The Santa Clara County Superintendent of Schools is the legal entity that exercises all powers related to the Deaf and Hard of Hearing program; there is no governing board in front of which to hold a public hearing. The waiver was approved by the Santa Clara County Superintendent of Schools on May 6, 2021. |
| 22-6-2021 | Santa Clara County Office of Education | **Requested:**  July 1, 2021 to  June 30, 2022  **Recommended:**  September 10, 2021 to June 30, 2022 | Service Employees International Union (SEIU)  Sarah Gianocaro,  Chapter President of SEIU Local 521  June 8, 2021  **Support** | The Santa Clara County Superintendent of Schools is the legal entity that exercises all powers related to the Deaf and Hard of Hearing program; there is no governing board in front of which to hold a public hearing. The waiver was approved by the Santa Clara County Superintendent of Schools on May 6, 2021. |

Created by California Department of Education

July 2021

# Attachment 2: Santa Clara County Office of Education General Waiver Request 20-6-2021

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 4310439

Waiver Number: 20-6-2021

Active Year: 2021

Date In: 6/29/2021 12:03:07 PM

Local Education Agency: Santa Clara County Office of Education

Address: 1290 Ridder Park Dr.

San Jose, CA 95131

Start: 7/1/2021

End: 6/30/2022

Waiver Renewal: N

Previous Waiver Number: 7-1-202-W-12

Previous SBE Approval Date: 5/7/2020

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: Specialized Services for Low-Incidence Disabilities.

(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.

[(3) 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 EIPA, the ESSE-I/R, or the NAD/ACCI assessment. If providing Cued Language transliteration, a transliterator shall possess T*EC*Unit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech]

Outcome Rationale: The Santa Clara County Office of Education serves a student population of 1,374 and operates a Deaf and Hard of Hearing program. It has been a challenge for our office to recruit and retain the number of certified Education Interpreters needed to support our student population, resulting in a consistent shortage. This shortage it what led us to request a waiver for the individual named in the submission. The named individual was granted a waiver, which expires 6/30/21. The events of the last year (COVID-19 pandemic) brought challenges to individuals seeking to participate in certification exams, therefore The Santa Clara County Office of Education (SCCOE) seeks to obtain a renewal of the waiver. This employee has ASL skills and the desire for certification. Approval of this waiver will help relieve the staffing shortage and allow us support our students while continuing to support this employee to prepare for certification.

Student Population: 1374

City Type: Urban

Public Hearing Date: 5/6/2021

Public Hearing Advertised: N/A - Please see attached memo, County Superintendent all powers related to the DHOH program.

Local Board Approval Date: 5/6/2021

Community Council Reviewed By: N/A - Please see attached memo, County Superintendent all powers related to the DHOH program.

Community Council Reviewed Date: 5/6/2021

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Ms. Marisa Perry

Position: Director - HR/ Classified Personnel Services

E-mail: [mperry@sccoe.org](\\\\CDE.Cal\\DATA\\TSDATA\\CENTRAL\\BOARDAGENDA\\2021 Calendar Year\\09 - September 2021\\Items\\WAIVERS\\mperry@sccoe.org" \o "Email address for Ms. Marisa Perry)

Telephone: 408-453-6846

Fax:

Bargaining Unit Date: 06/08/2021

Name: Service Employees International Union (SEIU)

Representative: Sarah Gianocaro

Title: SCCOE Chapter President of SEIU Local 521

Phone: 408-392-3998

Position: Support

Comments:

# Attachment 3: Santa Clara County Office of Education General Waiver Request 22-6-2021

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 4310439

Waiver Number: 22-6-2021

Active Year: 2021

Date In: 6/29/2021 5:08:40 PM

Local Education Agency: Santa Clara County Office of Education

Address: 1290 Ridder Park Dr.

San Jose, CA 95131

Start: 7/1/2021

End: 6/30/2022

Waiver Renewal: N

Previous Waiver Number: 11-1-2020-W-12

Previous SBE Approval Date: 5/7/2020

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: Specialized Services for Low-Incidence Disabilities.

(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.

[(3) 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 EIPA, the ESSE-I/R, or the NAD/ACCI assessment. If providing Cued Language transliteration, a transliterator shall possess T*EC*Unit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech]

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Community Council Reviewed Date: 5/6/2021

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Ms. Marisa Perry

Position: Director - HR/ Classified Personnel Services

E-mail: [mperry@sccoe.org](mailto:mperry@sccoe.org" \o "Email adddress for Ms. Marisa Perry)

Telephone: 408-453-6846

Fax:

Bargaining Unit Date: 06/08/2021

Name: Service Employees International Union (SEIU)

Representative: Sarah Gianocaro

Title: SCCOE Chapter President of SEIU Local 521

Phone: 408-392-3998

Position: Support

Comments: