

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education July 2021 Agenda Item #W-09

## Subject

Requests by **Fresno County Office of Education** 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 Rachel Witort, and Erika Zamora to continue to provide services to students until June 30, 2022, under a remediation plan to complete those minimum requirements.

## Waiver Number

* Fresno County Office of Education 16-2-2021
* Fresno County Office of Education 17-2-2021

## Type of Action

Action, Consent

## Summary of the Issue(s)

The State Board of Education (SBE) must determine if Ms. Rachel Witort and Erika Zamora 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 waivers request by the Fresno County Office of Education (FCOE) with the following conditions:

* Weekly meetings with Deborah Washington, a Registry of Interpreters for the Deaf (RID) certified FCOE interpreter, each Friday afternoon to practice and improve their skills.
* Regular opportunities to shadow Deborah regularly in mainstream classes at the high school.
* Opportunities to observe Individualized Education Program (IEP) meetings to observe Deborah interpreting and get feedback on their interpreting skills.
* Monthly meetings with the school principal (Leslie Cox) to discuss training needs, and additional training options to ensure candidates feel supported.
* Include $350 in school budget for training materials (in person and virtually).
* Facilitate attendance at seminars and workshops to enhance their interpreting ability.
* Witort and Zamora 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 FCOE must provide the CDE with the new EIPA assessment scores.

## 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 Title 34 of the *Code of Federal Regulations*, Section 300.156(c).

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.

### Fresno County Office of Education (FCOE), Rachel Witort (16-2-2021)

FCOE operates a Deaf and Hard of Hearing program in Fresno county and serves approximately 50 students who use American Sign Language to communicate. In order to meet graduation requirements, they need to access mainstream classes and depend on interpreters to do so. FCOE has posted an interpreter position for the past two years and had no applicants. FCOE hired Rachel Witort on November 18, 2020, who has scored a 3.8 on the EIPA.

Due to the pandemic, Testing Centers have been closed. Currently educational agencies and schools are reopening slowly, with each County Office following California Department of Public Health (CDPH) health and safety guidelines. Candidates for the EIPA Assessment will apply for appointments to test at the Testing Centers within their geographic location.

Once local Testing Centers reopen, she will continue to take the EIPA to obtain a 4.0 score. This waiver will allow FCOE to provide interpreting services to students in general education classes.

### Fresno County Office of Education (FCOE), Erika Zamora (17-2-2021)

This is a renewal waiver for Erika Zamora, who assisted FCOE last year when the Deaf and Hard of Hearing program operated by the county was short interpreters in the program. The FCOE Deaf and Hard of Hearing program serves approximately 50 students who use American Sign Language to communicate. In order to meet graduation requirements, they need to access mainstream classes and depend on interpreters to do so. FCOE has posted an interpreter position for the past two years and had no applicants.

At the January 2020 Meeting, the SBE approved a waiver for Zamora, who attained a score of 3.6 on the EIPA on March 31, 2019. Due to the pandemic, Testing Centers have been closed and Zamora has not been able to retake the EIPA. Currently educational agencies and schools are reopening slowly, with each County Office following CDPH health and safety guidelines. Candidates for the EIPA Assessment will apply for appointments to test at the Testing Centers within their geographic location.

FCOE seeks to extend the waiver until Zamora is able to take the test with the goal of obtaining a 4.0 score. This waiver will allow FCOE to provide interpreting services to students in general education classes.

### Demographic Information

The Fresno County Office of Education, located in Fresno County, CA, is a rural program that serves a Deaf and Hard of Hearing Program of 50 students.

**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** <https://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>.

Since 2005, the SBE has granted the FCOE two previous waivers for Deaf and Hard of Hearing Interpreters. These waivers did identify the same staff on one occasion. The FCOE 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 page)
* **Attachment 2:** Fresno County Office of Education General Waiver Request 16-2-2021 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Fresno County Office of Education General Waiver Request 17-2-2021 (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** |
| --- | --- | --- | --- | --- |
| 16-2-2021 | Fresno County Office of Education | **Requested:**  February 1, 2021 to  August 30, 2022  **Recommended:**  February 1, 2021 to  June 30, 2022 | California School Employees Association  Local Chapter #573  Hector Romero, President  02/22/2021  **Support** | **Public Hearing:**  2/1/2021  **Local Board Approval Date\*:**  2/22/2021  \*This waiver has been approved by the Fresno County Superintendent of Schools and they do not have a governing board. |
| 17-2-2021 | Fresno County Office of Education | **Requested:**  August 1, 2020 to  August 30, 2022  **Recommended:**  August 1, 2020 to  June 30, 2022 | California School Employees Association  Local Chapter #573  Hector Romero, President  02/22/2021  **Support** | **Public Hearing:**  2/1/2021  **Local Board Approval Date\*:**  2/17/2021  \*This waiver has been approved by the Fresno County Superintendent of Schools and they do not have a governing board. |

Created by the California Department of Education

May 2021

# Attachment 2: Fresno County Office of Education General Waiver Request 16-2-2021

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1010108

Waiver Number: 16-2-2021

Active Year: 2021

Date In: 2/24/2021 12:25:40 PM

Local Education Agency: Fresno County Office of Education

Address: 1111 Van Ness Ave.

Fresno, CA 93721

Start: 2/1/2021

End: 8/30/2022

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:

*California Code of Regulations*, Title 5 (5 *CCR*) Section 3051.16

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: We operate a Deaf and hard of hearing program in Fresno county and serve approximately 50 students who use American Sign Language to communicate. In order to meet graduation requirements, they need to access mainstream classes and depend on interpreters to do so. We have posted an interpreter position for the past two years and had no applicants. We were delighted to find Rachel Witort who has scored a 3.8 on the EIPA. She will continue to take the IPA to obtain a 4.0 score. This waiver will allow us to provide interpreting services for our students in general education classes.

Student Population: 50

City Type: Rural

Public Hearing Date: 2/1/2021

Public Hearing Advertised: Please see exhibit #1

Local Board Approval Date: 2/22/2021

Community Council Reviewed By: Fresno County SELPA Community Advisory Committee (CAC)

Community Council Reviewed Date: 2/10/2021

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Ms. Leslie Cox

Position: Principal

E-mail: [lcox@mail.fresnostate.edu](mailto:lcox@mail.fresnostate.edu)

Telephone: 559-312-5200

Fax:

Bargaining Unit Date: 02/22/2021

Name: California School Employees Association Agreement

Representative: Hector Romero

Title: President Local Chapter #573

Phone: 559-477-5933

Position: Support

Comments:

# Attachment 3: Fresno County Office of Education General Waiver Request 17-2-2021

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1010108

Waiver Number: 17-2-2021

Active Year: 2021

Date In: 2/24/2021 12:48:13 PM

Local Education Agency: Fresno County Office of Education

Address: 1111 Van Ness Ave.

Fresno, CA 93721

Start: 8/1/2020

End: 8/30/2022

Waiver Renewal: Y

Previous Waiver Number: 12-9-2019-W-08

Previous SBE Approval Date: 1/10/2020

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: *California Code of Regulations*, Title 5 (5 *CCR*) Section 3051.16

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: We operate a Deaf and hard of hearing program in Fresno County and serve approximately 50 students who use American Sign Language to communicate. In order to meet graduation requirements, the need to access mainstream classes and depend on interpreters to do so. We have posted for an interpreter position for two years with no applicants applying. Erika helped us last year when we were short interpreters in our program. She had taken the EIPA and scored a 3.6. Her waiver was approved until 8-14-2020. We contacted the waiver office over the summer to request an extension due to Covid and because all testing in our area has been canceled. Erika was not able to retake the EIPA and is still waiting for an opportunity to do so. We would like to extend her waiver until she is able to take the test. This waiver will allow us to provide interpreting services for our students in general education classes.

Student Population: 50

City Type: Rural

Public Hearing Date: 2/1/2021

Public Hearing Advertised: Please see exhibit #1

Local Board Approval Date: 2/17/2021

Community Council Reviewed By: Fresno County SELPA Community Advisory Committee (CAC)

Community Council Reviewed Date: 2/10/2021

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Ms. Leslie Cox

Position: Principal

E-mail: [lcox@mail.fresnostate.edu](mailto:lcox@mail.fresnostate.edu)

Telephone: 559-312-5200

Fax:

Bargaining Unit Date: 02/22/2021

Name: California School Employees Association Agreement

Representative: Hector Romero

Title: President Local Chapter #573

Phone: 559-477-5933

Position: Support

Comments: