

California Department of Education

Executive Office

SBE-005 (REV. 1/2021)

General Waiver

# California State Board of Education July 2023 Agenda Item #W-08

## Subject

Request by **Brawley Union High 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

9-4-2023

## 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 12, 2023, to June 30, 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, 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 *CCR,* Title 5, Section 3043.

## Summary of Key Issues

### Brawley Union High School District (BUHSD)

The BUHSD requested a reduced Extended School Year Program schedule that allowed the district to operate their program for a total of 15 days in June 2023, from June 12, 2023 to June 30, 2023. The BUHSD stated that the ESY schedule would help to facilitate cost-effective services within the classroom and reduce the cost of transportation, electricity, custodial services, and administration.

CDE verified that BUHSD’s ESY program operated for 6.5 hours per day, five days per week (Monday through Friday) totaling 97.5 hours. This is more hours than if BUHSD provided the ESY program for 20 days. CDE verified that the 6.5 hours per day of the ESY program would aligned with BUHSD’s general education summer school program hours.

**Demographic Information**: The Brawley Union High School District has a student population of 1,869 and is located in a rural area in Imperial 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 *California Code of Regulations (CCR)*, Title 5, Section 3043(f).

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Brawley Union High School District General Waiver Request 9-4-2023 (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 |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 9-4-2023 | Brawley Union High School District | **Requested:**  June 12, 2023, to June 30, 2023  (Monday through Friday)  **Recommended:**  June 12, 2023, to June 30, 2023  (Monday through Friday) | To provide a 15-day extended school year (ESY) program instead of a 20-day ESY program | Approval with conditions to allow the local educational agency (LEA) to provide a 15-day ESY program instead of a 20-day ESY program | Adrian Sanchez, President,  Brawley Union High School Teachers Association  3/25/2023  Support | 4/5/2023 | The LEA may not provide a 15-day ESY program |

Created by the California Department of Education

May 2023

# Attachment 2: Waiver 9-4-2023 Brawley Union High School District

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1363081

Waiver Number: 9-4-2023

Active Year: 2023

Date In: 4/17/2023 12:06:40 PM

Local Education Agency: Brawley Union High

Address: 480 North Imperial Ave.

Brawley, CA 92227

Start: 6/12/2023

End: 6/30/2023

Waiver Renewal: No

Waiver Topic: Special Education Program

Ed Code Title: Extended School Year (Summer School)

Ed Code Section: CCR, Title 5, Section 3043(d)

Ed Code Authority: 33050

Education Code or CCR to Waive: "An extended year program shall be provided for a minimum of 20 instructional days, including holidays."

Outcome Rationale: Brawley Union High School District is proposing to operate a summer school program 9th-12th for a total of 15 school days (6 hours and 30 minutes of daily instruction). There will be a reduction in days of attendance to facilitate cost-effective services within the classroom, reduce the cost of transportation, electricity, custodial services, administration, etc. Extended school year will be the same number of days as the general education summer school program.

Student Population: 2056

City Type: Rural

Public Hearing Date: 4/5/2023

Public Hearing Advertised: Notice was posted at each school site as well as district office and electronic notification via online board agenda

Local Board Approval Date: 4/5/2023

Community Council Reviewed By: School Site Council

Community Council Reviewed Date: 4/6/2023

Community Council Objection: No

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Dr. Julie Fernandez

Position: Director of Special Education

E-mail: [jfernandez@brawleyhigh.org](mailto:jfernandez@brawleyhigh.org)

Telephone: 760-312-6077

Fax: 760-344-9520

Bargaining Unit Date: 03/25/2023

Name: Brawley Union High School Teachers Association

Representative: Adrian Sanchez

Title: President

Phone: 760-960-6470/760-312-5819 ext 4138

Position: Support