

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of Education January 2018 Agenda Item #W-15

## Subject

Requests by **Fresno County Office of Education**, **San Luis Coastal Unified School** **District**, and **Sutter County Office of Education** to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Hannah DeVous, Jessica Vasquez, Kathryn Robasciotti and David O’ Campo to continue to provide services to students until June 30, 2018, under a remediation plan to complete those minimum requirements.

## Waiver Numbers

* Fresno County Office of Education 14-9-2017
* San Luis Coastal Unified School District 36-6-2017
* Sutter County Office of Education 12-9-2017

## Type of Action

Action, Consent

## Summary of the Issue(s)

The State Board of Education (SBE) must determine if Hannah DeVous, Jessica Vasquez, Kathryn Robasciotti and David O’ Campo qualify for an educational interpreter waiver to provide educational interpreting services until June 30, 2018.

## Authority for Waiver

California *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 waiver requests by the unified school district and county offices of education with the conditions as follows:

Fresno County Office of Education (COE) hired Ms. DeVous and Ms. Vasquez in November of 2016. These interpreters have until November of 2017 to pass a certification at a level of 4.0, per their hiring agreement. Both have either retaken the test or are scheduled to take the test. To this end,

1. The Fresno COE must provide Ms. DeVous and Ms. Vasquez with weekly one-on-one mentorship, based on an individualized development plan, by a qualified interpreter.
2. By March 1, 2018, the Fresno COE must provide CDE with new assessment scores for Ms. DeVous and Ms. Vasquez.
3. The Fresno COE will provide monthly updates to CDE for the duration of the waiver.

San Luis Coastal Unified School District will require Ms. Robasciotti to perform the following activities:

1. Take advantage of the opportunities and resources available from San Luis Coastal USD in order to maximize her assessment score.
2. Receive individual mentoring and professional development activities by a Certified Interpreter. This work will include meeting with her mentor on a regular basis focusing on skill development, peer mentoring, job shadowing other certified interpreters, attending deaf community events.
3. Work with the mentor to film samples of her work, self-assess the skill domains, and determine the root causes of issues with skills. Professional development activities will be developed for her to complete.
4. Participate in group training sessions, workshops, conferences and any other organized professional development activities as they become available throughout the year.
5. The San Luis Coastal USD will provide monthly updates to CDE for the duration of the waiver.

Sutter County Office of Education (COE) is expected to ensure that Mr. O’ Campo will:

1. Take advantage of the opportunities and resources available from Sutter County Superintendent of Schools in order to maximize his assessment score.
2. Receive individual mentoring and professional development activities by a Certified Interpreter. This work will include meeting with his mentor on a regular basis focusing on skill development, peer mentoring, job shadowing other certified interpreters, attending deaf community events.
3. Work with the mentor to film samples of his work, self-assess the skill domains, and determine the root causes of issues with skills. Professional development activities will be developed for him to complete.
4. Participate in group training sessions, workshops, conferences and any other organized professional development activities as they become available throughout the year.
5. The Sutter COE will provide monthly updates to CDE for the duration of the waiver.

## 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(b)(1).

To meet this federal requirement, the *California Code of Regulations*, Section 3051.16(b)(3) requires the following:

By July 1, 2009, and thereafter, 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/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

Ms. DeVous (recent EIPA score of 3.8) and Ms. Vasquez (recent EIPA score of 3.7), “require continued supervision and should be required to participate in continuing education in interpreting.” According to the EIPA Rating System, the current scores further indicate that these educational interpreters:

“Demonstrates knowledge of basic vocabulary, but will lack vocabulary for more technical, complex, or academic topics.” The individuals are “able to sign in a fairly fluent manner using some consistent prosody, but pacing is still slow with infrequent pauses for vocabulary or complex structures. Sign production may show some errors but generally will not interfere with communication. Grammatical production may still be incorrect, especially for complex structures, but is in general intact for routine and simple language. Comprehends signed messages but may need repetition and assistance. Voiced translation often lacks depth and subtleties of the original message. An individual at this level would be able to communicate very basic classroom content, but may incorrectly interpret complex information resulting in a message that is not always clear.”

The Fresno County Office of Education, is requesting this waiver for Ms. Vasquez and Ms. DeVous because the Fresno County deaf and hard of hearing students previously attended a regionalized program in Fresno Unified School district, and the Memo of Understanding between the County Office of Education and Unified School District was not renewed. The Fresno County Students returned to their individual districts for the 2017-18 school year. In order to meet the needs of these students, Fresno County Superintendent of Schools started a program for students who are deaf or hard of hearing, and the County Office of Education hired the most qualified candidates to be interpreters. This included the two individuals since identified in the waiver request, both were not at a 4.0 level.

### San Luis Coastal Unified School District

Ms. Robasciotti, with the most recent EIPA score of 3.3, requires “continued supervision and should be required to participate in continuing education in interpreting.” The current score indicates that this educational interpreter:

“Demonstrates knowledge of basic vocabulary, but will lack vocabulary for more technical, complex, or academic topics. Individual is able to sign in a fairly fluent manner using some consistent prosody, but pacing is still slow with infrequent pauses for vocabulary or complex structures. Sign production may show some errors but generally will not interfere with communication. Grammatical production may still be incorrect, especially for complex structures, but is in general intact for routine and simple language. Comprehends signed messages but may need repetition and assistance. Voiced translation often lacks depth and subtleties of the original message. An individual at this level would be able to communicate very basic classroom content, but may incorrectly interpret complex information resulting in a message that is not always clear.”

The San Luis Coastal Unified School District is requesting this waiver to allow Ms. Robasciotti to interpret in the K-12 classroom because she is awaiting a more recent score after taking the EIPA again on March 10, 2017. In the meantime, she continues to demonstrate a high level of dedication to her continued professional development and with her attention to the responsibilities of her work in a rural area where resources to support her development remain scarce.

### Sutter County Office of Education

Mr. O’Campo, with the most recent EIPA score of 3.8, “requires continued supervision and should be required to participate in continuing education in interpreting.” The current score indicates that this educational interpreter:

“Demonstrates knowledge of basic vocabulary, but will lack vocabulary for more technical, complex, or academic topics. Individual is able to sign in a fairly fluent manner using some consistent prosody, but pacing is still slow with infrequent pauses for vocabulary or complex structures. Sign production may show some errors but generally will not interfere with communication. Grammatical production may still be incorrect, especially for complex structures, but is in general intact for routine and simple language. Comprehends signed messages but may need repetition and assistance. Voiced translation often lacks depth and subtleties of the original message. An individual at this level would be able to communicate very basic classroom content, but may incorrectly interpret complex information resulting in a message that is not always clear.”

The Sutter County Office of Education is requesting this waiver to allow Mr. O’Campo to interpret in the K-12 classroom because he has been working as a para-educator in the COE’s Deaf and Hard of Hearing program while working on his interpreting skills to become an interpreter. His most recent test results fell slightly short of the required 4.0 skill level.

### Demographic Information

The Fresno County Office of Education has a Deaf and Hard of Hearing student population of 43 and is located in the rural part of Fresno County.

The San Luis Coastal Unified School District has a Deaf and Hard of Hearing student population of 53 in the rural county of San Luis Obispo.

The Sutter County Office of Education has a Deaf and Hard of Hearing student population of 69 and is located in the rural part of Sutter County.

Because this is a general waiver, if the SBE 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 <http://www.cde.ca.gov/re/lr/wr/documents/interpreter_000.doc>

## 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 14‑9‑2017 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** San Luis Coastal Unified School District General Waiver Request 36-6-2017 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 4:** Sutter County Office of Education General Waiver Request 12‑9‑2017 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 41402

| **Waiver Number** | **District** | **Period of Request** | **District’s Request** | **Bargaining Unit Representatives Consulted, Date and Position** | **Local Board and Public Hearing Approval** |
| --- | --- | --- | --- | --- | --- |
| 14-9-2017 | Fresno  County Office of Education  (FCOE) | **Requested:**  August 15, 2017  to August 15, 2018  **Recommended:**  August 15, 2017  to June 30, 2018 | A waiver for  Hannah DeVous  and  Jessica Vasquez | California School Employees Association  Chapter #573 Irma Hicks  Chief Job Steward and Treasurer  7/21/2017  **Support** | A Public hearing was posted several places at the Fresno County Office of Education on 7/21/2017. Local Board  7/27/2017  **Support** |
| 36-6-2017 | San Luis Coastal Unified School District  (SLCUSD) | **Requested:**  August 22, 2016  to June 8, 2017  **Recommended:**  August 22, 2017  to June 30, 2018 | A waiver for  Kathryn Robasciotti | California School Employees Association, Chapter 89, Janet Crabb, 12/09/2015  **Support** | 12/15/2015  Public hearing advertised in the local newspaper, “The Tribune,” on 11/25/2015  **Support** |
| 12-9-2017 | Sutter County Office of Education  (SCOE) | **Requested:**  August 10, 2017  to August 31, 2018  **Recommended:**  August 10, 2017  to June 30, 2018 | A waiver for David O’Campo | California School Employees Association  Chapter #634  Lisa Scott  President  8/9/2017  **Support** | A Public hearing was advertised in local newspaper and held 9/13/2017  Local Board  9/13/2017  **Support** |

Created by California Department of Education  
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# Attachment 2: Fresno County Office of Education General Waiver Request 14‑9‑2017

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 1010108

Waiver Number: 14-9-2017

Active Year: 2017

Date In: 9/22/2017 9:49:36 AM

Local Education Agency: Fresno County Office of Education

Address: 1111 Van Ness Ave.

Fresno, CA 93721

Start: 8/15/2017

End: 8/15/2018

Waiver Renewal: No

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

Ed Code or *CCR* to Waive: The State Board of Education has amended two sections of Title 5 of the *California Code of Regulations* (*CCR*), Sections 3051.16 and 3065, to ensure that interpreters for pupils who are deaf or hard of hearing meet state-approved or state-recognized requirements for certification, licensing and registration or other comparable requirements.

The regulations specify the following qualification standards for educational interpreters, effective July 1, 2008:

1. By July 1, 2008, 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 shall have achieved a score of 3.0 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 (T*EC*Unit) certification, or have achieved a score of 3.0 or above on the EIPA - Cued Speech.

2. By July 1, 2008, 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 3.5 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 3.5 or above on the EIPA - Cued Speech.

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.

The regulations further define an "educational interpreter" as any person who provides communication facilitation between students who are deaf or hard of hearing, and others, in the general education classroom and for other school related activities, including extracurricular activities, as designated in a student's Individualized Educational Program (IEP).

Outcome Rationale: Fresno County Deaf and hard of hearing students previously attended a regionalized program in Fresno Unified School District. The MOU was not renewed and the Fresno County Students returned to their individual districts. In order to meet the needs of these students, Fresno County Superintendent of Schools started a program for DHH students. We posted on EdJoin and hired the most qualified candidates to be interpreters. This included two individuals and both were not at a level 4.0.

We hired both interpreters in November of 2016. They have until November of 2017 to pass a certification at a level 4.0, per their hiring agreement. Both have either retaken the test or are scheduled to take the test.

Student Population: 43

City Type: Rural

Public Hearing Date: 7/27/2017

Public Hearing Advertised: It was posted several places at the Fresno County Office of Education on 7-21-17.

Local Board Approval Date: 7/27/2017

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

Community Council Reviewed Date: 7/27/2017

Community Council Objection: No

Community Council Objection Explanation: *(None)*

Audit Penalty YN: N

Categorical Program Monitoring: No

Submitted by: Ms. Leslie Cox

Position: Program Manager

E-mail: [lcox@fcoe.org](mailto:lcox@fcoe.org)

Telephone: 559-443-4880

Fax: 559-265-3076

Bargaining Unit Date: 07/21/2017

Name: California School Employees Association #573

Representative: Irma Hicks

Title: CSEA Chief Job Steward and Treasurer

Position: Support

Comments: *(None)*

# Attachment 3: San Luis Coastal Unified School District General Waiver Request 36-6-2017

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 4068809

Waiver Number: 36-6-2017

Active Year: 2017

Date In: 6/21/2017 11:27:40 AM

Local Education Agency: San Luis Coastal Unified School District

Address: 1500 Lizzie St.

San Luis Obispo, CA 93401

Start: 8/22/2016

End: 6/8/2017

Waiver Renewal: No

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

Ed Code or *CCR* to Waive: 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 TEC Unit certification, or have achieved a score of 4.0 or above on the IEPA-Cued Speech.

Outcome Rationale: A new student enrolled in the school district with a disability designation of Deaf, Hard of Hearing. The parents chose not to enroll in the county office of education Deaf Hard of Hearing program that is approximately 15 miles away in another town. We did not have this position of Interpreter for the Deaf in the district previously. When we recruited for this position we had only one applicant, Kathryn Robasciotti. With her experience and knowledge, we have hired her while continuing to recruit and request this waiver. Kathryn took the EIPA on 6/18/16 with a score of 3.3 and retook the performance portion of the EIPA in April 2017.

Student Population: 1

City Type: Rural

Public Hearing Date: 12/15/2015

Public Hearing Advertised: The Tribune on 11/25/2015

Local Board Approval Date: 12/15/2015

Community Council Reviewed By: School Site Council at C.L. Smith Elementary

Community Council Reviewed Date: 12/8/2015

Community Council Objection: No

Community Council Objection Explanation: *(None)*

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Traci Moreno

Position: Personnel Assistant

E-mail: [tmoreno@slcusd.org](mailto:tmoreno@slcusd.org)

Telephone: 805-549-1239

Fax: 805-543-7087

Bargaining Unit Date: 12/09/2015

Name: California School Employees Association Chapter 89

Representative: Janet Crabb

Title: Acting President

Position: Support

Comments: *(None)*

# Attachment 4: Sutter County Office of Education General Waiver Request 12‑9‑2017

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 5110512

Waiver Number: 12-9-2017

Active Year: 2017

Date In: 9/21/2017 8:23:29 AM

Local Education Agency: Sutter County Office of Education

Address: 970 Klamath Ln.

Yuba City, CA 95993

Start: 8/10/2017

End: 6/30/2018

Waiver Renewal: No

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)and(c)

Ed Code Authority: 33050-33053

Ed Code or *CCR* to Waive: (b) An “educational interpreter” provides communication facilitation between students who are deaf or hard of hearing, and others, in the general education classroom and for other school-related activities, including extracurricular activities, as designated in a student's IEP.

(c) 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 (T*EC*Unit) certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.

Outcome Rationale: It is very difficult to recruit Interpreters into the educational field, due to working a shorter year (less hours per day and less months per year). The potential for a higher income is in private industry which draws Interpreters that direction. With that said, Sutter County Superintendent of schools must try to recruit from within. So, we encourage our existing Para-Educators with Signing Skills to work towards certification as an Interpreter. This particular waiver is just that. Mr. O'Campo has been working as a Para-Educator in our Deaf and Hard of Hearing program while working on his interpreting skills to become an Interpreter. His most recent test results fell slightly short of the required 4.0 skill level, which is why this waiver is necessary. We have complete confidence that Mr. O'Campo will obtain a 4.0 or higher on his next assessment, but would like to keep him working with students until he is able to do so. He is an essential part of our Deaf and Hard of Hearing program.

Student Population: 370

City Type: Rural

Public Hearing Date: 9/13/2017

Public Hearing Advertised: Notice in local newspaper

Local Board Approval Date: 9/13/2017

Community Council Reviewed By: Community Advisory Committee (CAC)

Community Council Reviewed Date: 8/18/2017

Community Council Objection: No

Community Council Objection Explanation: *(None)*

Audit Penalty Yes or No: No

Categorical Program Monitoring: N

Submitted by: Ms. Wendy Bedard

Position: Human Resources Director

E-mail: [wendyb@sutter.k12.ca.us](mailto:wendyb@sutter.k12.ca.us)

Telephone: 530-822-2905

Fax: *(None)*

Bargaining Unit Date: 08/09/2017

Name: CSEA, Chapter 634

Representative: Lisa Scott

Title: Local Chapter President

Position: Support

Comments: *(None)*