

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of Education January 2020 AgendaItem #W-08

## Subject

A request by two County Offices 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 Erika Danielle Zamora and William Curd to continue to provide services to students until August 14, 2020, under a remediation plan to complete those minimum requirements.

## Waiver Number

* Fresno County Office of Education 12-9-2019
* San Luis Obispo County Office of Education 4-10-2019

## Type of Action

Action, Consent

## Summary of the Issue(s)

The State Board of Education (SBE) must determine if Erika Danielle Azmora and William Curd qualify for educational interpreter waivers to provide educational interpreting services until August 14, 2020.

## 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 county offices of education with the following conditions:

### **Fresno County Office of Education (Fresno COE), Erika Danielle Zamora:**

1. The Fresno COE will facilitate Ms. Zamora’s attendance at seminars and workshops to enhance her interpreting ability.
2. The Fresno COE must provide Ms. Zamora with weekly one-on-one mentorship, based on an individualized development plan, by a qualified interpreter.
3. Ms. Zamora shall complete the Educational Interpreter Performance Assessment (EIPA) by August 14, 2020.
4. When scores become available, the Fresno COE must provide CDE with new EIPA assessment scores for Ms. Zamora.

### San Luis Obispo County Office of Education, (San Luis Obispo COE), William Curd

1. Mr. Curd will work with Kathryn Voice, a certified interpreter for the deaf.
2. Mr. Curd will be able to consult with Ms. Voice on an ongoing basis, as they are both assigned to the same program. Ms. Voice will be able to provide feedback to Mr. Curd about his performance as an interpreter.
3. Mr. Curd will re-take the Educational Interpreter Performance Assessment (EIPA) exam on March 29, 2020.
4. When scores become available, the San Luis Obispo COE must provide CDE with new EIPA assessment scores for Mr. Curd.

## 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. Zamora has a Bachelor of Arts in American Sign Language Interpreting and is a paraprofessional in the Fresno COE. She attained a score of 3.6 on the EIPA on March 31, 2019. An employee serving as an interpreter left the Fresno COE in July 2019, creating a vacant position. No applicants applied for the position, and Ms. Zamora was offered the position on the condition, per her contract, that she obtain a score of 4.0 within one year of employment on the qualifying assessment.

### San Luis Obispo County Office of Education

Mr. Curd was hired by San Luis Obispo COE on August 22, 2018 and his score on the EIPA exam at the time was a 3.5. He re-tested for the EIPA on March 31, 2019 and earned a score of 3.4. The current waiver expired on June 30, 2019 so a renewal waiver is being requested for Mr. Curd to continue in his position. San Luis Obispo COE has been recruiting for this position for the past two years and has not been able to find a qualified interpreter.

### Demographic Information:

The Fresno COE has a Deaf and Hard of Hearing student population of 50 and is located in the rural part of Fresno County.

The San Luis Obispo COE has a Deaf and Hard of Hearing student population of 6 and is located in suburban San Luis Obispo, California.

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 <https://www.cde.ca.gov/re/lr/wr/documents/interpreter.docx>

The SBE has granted the Fresno COE three previous waivers for Deaf and Hard of Hearing Interpreters. These waivers were for one year terms only, and did not identify the same staff. The Fresno COE makes successful attainment of a passing score of 4.0 on the EIPA a condition of continued employment in the position of interpreter.

The SBE has granted the San Luis Obispo COE six previous waivers for Deaf and Hard of Hearing Interpreters. These waivers were for one year terms only, and did identify the same staff on two occasions. The San Luis Obispo COE 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:** Fresno County Office of Education General Waiver Request
12-9-2019 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** San Luis Obispo County Office of Education General Waiver Request 4-10-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

| **Waiver Number** | **District** | **Period of Request** | **Bargaining Unit Representatives Consulted, Date and Position** | **Local Board and Public Hearing Approval** |
| --- | --- | --- | --- | --- |
| 12-9-2019 | Fresno County Office of Education | **Requested:**August 14, 2019to August 14, 2020**Recommended:**August 14, 2019to August 14, 2020 | California School Employees AssociationChapter #573Hector Romero, President9/22/19**Support**  | This waiver has been approved by the Fresno County Superintendent of Schools and they do not have a governing board. See Exhibit #1 on waiverSeptember 11, 2019 |
| 4-10-2019 | San Luis Obispo County Office of Education | **Requested:**August 1, 2019to June 30, 2020**Recommended:**August 1, 2019to June 30, 2020 | California School Employees AssociationJack Seibert, President7/08/19**Support**  | Public Hearing Date: September 11, 2019Local Board Approval Date: September 3, 2019 |

Created by California Department of Education
December 9, 2019

# Attachment 2: Fresno County Office of Education General Waiver Request 12-9-2019

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1010108

Waiver Number: 12-9-2019

Active Year: 2019

Date In: 9/23/2019 4:15:20 PM

Local Education Agency: Freson County Office of Education

Address: 1111 Van Ness Ave,

Fresno, CA 93721

Start: 8/14/2019

End: 8/14/2020

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

*Education Code* or *CCR* to Waive: The State Board of Education has amended two sections of Title 5 of the *California Code of Regulations*, Title 5 (5 *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.

By July 1, 2009, an educational interpreter shall be certified by the national Registy of Interpreters for the Deaf (RID), or equivalent; in lieu of RID certification or equivalent, an educational interpreter must 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 Associatiion 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 3.0 or above o the WIPA – Cued Speech.

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: Fresno County Superintendent of Schools, county-operated DHH program serves students in the Fresno County SELPA who have significant hearing losses and need sign language to communicate.Last year, we were short an interpreter and posted the position all year with no applicants who applied. In July, one of our interpreters at the high school relocated to LA. This left us short and unable to support our high school students in their mainstream classes which they need to graduate with a diploma. We had a paraprofessional who earned a BA in ASL interpreting and had taken the EIPA with a score of 3.6. We offered her the position under the condition, per CSEA contract, that she obtain a 4.0 score within one year on a qualifying exam.Please see attached job description.

Student Population: 50

City Type: Rural

Public Hearing Date: 9/11/2019

Public Hearing Advertised: N/A Please see attached, Exhibit #1.

Local Board Approval Date: 9/3/2019

Community Council Reviewed By: Community Advisory Committee (CAC)

Community Council Reviewed Date: 9/11/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Leslie Cox

Position: Principal II

E-mail: lcox@fcoe.org

Telephone: 559-443-4880

Fax: 559-265-3076

Position: Support

Bargaining Unit Date: 09/22/2019

Name: California School Employees Assiciation #573

Representative: Hector Romero

Title: CSEA Chapter President

Poition: Support

Exhibit #1

Answer to Public Hearing, Question #2

The Fresno County Superintendent of Schools is the legal entity that funds and is responsible for the county-operated Deaf and Hard of Hearing program in which the interpreters from whom the waiver is sought are employed.  The Fresno County Superintendent of Schools exercises all powers related to these programs, including, but not limited to facilities, employment, contracts, etc., without the approval of the Fresno County Board of Education or any other board.  Therefore, there is not “governing board” in front of which to hold a public hearing on the requested waiver as anticipated by California Education Code section 33050.  Therefore, this waiver has been approved by the Fresno County Superintendent of Schools.

# Attachment 3: San Luis Obispo County Office of Education General Waiver Request 4-10-2019

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 4010405

Waiver Number: 4-10-2019

Active Year: 2019

Date In: 10/8/2019 11:33:43 AM

Local Education Agency: San Luis Obispo County Office of Education

Address: 3350 Education Dr.

San Luis Obispo, CA 93405

Start: 8/1/2019

End: 6/30/2020

Waiver Renewal: Yes

Previous Waiver Number: 6-1-2019-W-11

Previous SBE Approval Date: 3/13/2019

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: [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: William Curd was hired for the Interpreter for the Deaf position with the San Luis Obispo County Office of Education 8/22/2018. His EIPA Certificate at that time indicated a score of 3.5. A waiver was applied for and granted by the CA Department of Education 3/13/19. William re-tested for the EIPA 3/31/19 and earned a score of 3.4. William has been working in the field for 10 years. San Luis Obispo COE has been recruiting for this position continuously for two years via www.edjoin.org. Unfortunately other candidates had no certification and did not pass the required skills assessment during the interview process. A waiver renewal is being requested for William to continue in the position and work toward re-testing to reach the state-required EIPA score of 4.0 or higher, or other qualified certification in order to continue in the position.

Student Population: 6

City Type: Suburban

Public Hearing Date: 8/1/2019

Public Hearing Advertised: Company website, physical posting at main office, local media email distribution, school district email distribution

Local Board Approval Date: 7/24/2019

Community Council Reviewed By: Personnel Commission

Community Council Reviewed Date: 7/24/2019

Community Council Objection: No

Community Council Objection Explanation: Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Jenni Pong

Position: Human Resources Specialist

E-mail: jpong@slocoe.orgTelephone: 805-782-7248

Bargaining Unit Date: 07/08/2019
Name: CSEA
Representative: Jacki Seibert
Title: CSEA Chapter President
Position: Support
Comments: