

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of Education March 2021 Agenda Item #W-08

## Subject

Request by the **San Luis Obispo 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 William Curd to continue to provide services to students until June 30, 2022, under a remediation plan to complete those minimum requirements.

## Waiver Number

* San Luis Obispo County Office of Education 6-10-2020

## Type of Action

Action, Consent

## Summary of the Issue(s)

The State Board of Education (SBE) must determine if William Curd qualifies for an educational interpreter waiver to provide educational interpreting services until

June 30, 2022.

## 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 request by the county office of education with the following conditions:

### 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 as soon as possible, when the Assessment Centers reopen. Currently, Assessment Centers are closed due to COVID-19.
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.

### San Luis Obispo County Office of Education

William Curd was hired for the Interpreter for the Deaf position with the San Luis Obispo COE on 8/22/2018. His EIPA Certificate at that time indicated a score of 3.5. A waiver was applied for and granted by the California State Board of Education (SBE) on 03/13/2019. Mr. Curd re-tested for the EIPA on 03/31/2019 and earned a score of 3.4. A second waiver was applied for and granted by the SBE on 01/09/2020. Mr. Curd was scheduled to re-take the EIPA on 03/30/2020. Due to the COVID-19 pandemic, the test session was cancelled. He was able to reschedule and test for the EIPA on 06/30/2020, and earned a score of 3.8. Due to COVID-19, all testing centers have experienced delays and frequent closures; he will take the test as soon as the Assessment Centers reopen.

### Demographic Information:

The San Luis Obispo COE has a Deaf and Hard of Hearing student population of six 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 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 page)
* **Attachment 2:** San Luis Obispo County Office of Education General Waiver Request 6-10-2020 (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** |
| --- | --- | --- | --- | --- |
| 6-10-2020 | San Luis Obispo County Office of Education | **Requested:**  August 13, 2020  to July 31, 2021  **Recommended:**  March 1, 2021  to June 30, 2022 | California School Employees Association  Jacki Seibert, President  7/22/2020  **Support** | Public Hearing Date: 9/17/2020  Public Hearing Advertised: Company website, physical posting at main office, local media email distribution, school district email distribution  Local Board Approval Date: 9/23/2020  Community Council Reviewed By: Personnel Commission  Personnel Commission Approval:9/23/2020 |

Created by California Department of Education  
January 12, 2021

# Attachment 2: Waiver 6-10-2020 San Luis Obispo County Office of Education

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 4010405

Waiver Number: 6-10-2020

Active Year: 2020

Date In: 10/23/2020 3:28:02 PM

Local Education Agency: San Luis Obispo County Office of Education

Address: 3350 Education Dr.

San Luis Obispo, CA 93405

Start: 8/13/2020

End: 7/31/2021

Waiver Renewal: Y

Previous Waiver Number: 04-10-2019-W-08

Previous SBE Approval Date: 1/9/2020

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: [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 03/13/2019. William re-tested for the EIPA on 03/31/2019 and earned a score of 3.4. A second waiver was applied for and granted by the CA Department of Education 01/09/2020. William was scheduled to re-test for the EIPA on 03/30/2020. Due to the COVID-19 pandemic, the test session was cancelled. William was able to reschedule and test for the EIPA on 06/30/2020, and he earned a score of 3.8.

William has been working in the educational interpreting field for more than 10 years. San Luis Obispo COE has been recruiting for this position continuously for more than two years via <http://www.edjoin.org/>. Other candidates for the position either had no certification, did not pass the required skills assessment during the interview, or did not accept employment offers. 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: 7

City Type: Suburban

Public Hearing Date: 9/17/2020

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

Local Board Approval Date: 9/23/2020

Community Council Reviewed By: Personnel Commission

Community Council Reviewed Date: 9/23/2020

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Ms. Jenni Pong

Position: Human Resources Specialist

E-mail: [jpong@slocoe.org](file:///C:\Users\jamick\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\YO1BG14R\jpong@slocoe.org)

Telephone: 805-782-7248

Fax:

Bargaining Unit Date: 07/22/2020

Name: CSEA

Representative: Jacki Seibert

Title: CSEA Chapter President

Phone: 805-543-7732

Position: Support

Comments: