

California Department of Education

Executive Office

SBE-005 (REV. 1/2021)

General Waiver

# California State Board of Education September 2023 Agenda Item #W-02

## Subject

Request by **Alpine Union Elementary School District** to waive *California Code of Regulations (CCR),* 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

2-3-2023

## 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 15, 2023, to July 7, 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, the 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

### Alpine Union Elementary School District

The Alpine Union Elementary School District (AUESD) requested a reduced ESY program schedule that allowed the district to operate their program for a total of 15 days in June and July 2023, from June 15, 2023, to July 7, 2023. The AUESD stated that they have utilized an alternate ESY schedule in 2019, 2020, and 2021, and the schedule has improved the participation of highly qualified staff and student attendance.

The CDE verified that AUESD’s program operated for 5.5 hours per day, five days per week (Monday through Friday, exclusive of the Juneteenth and July 4th holiday), totaling 82.5 hours. This is more hours than if AUESD provided the ESY program for 20 days. CDE verified that the 5.5 hours per day of the ESY program aligned with AUESD general education summer school program hours.

**Demographic Information**: The AUESD has a student population of 1,576 and is located in a rural area in San Diego 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 *CCR*, Title 5, Section 3043(f).

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Alpine Union Elementary School District General Waiver Request 2-3-2023 (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 |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 2-3-2023 | Alpine Union Elementary School District | **Requested:**  June 15, 2023, to July 7, 2023  **Recommended:**  June 15, 2023, to July 7, 2023 | To provide a 15-day extended school year (ESY) program instead of a 20-day ESY program | Retroactive approval with no conditions as the CDE has verified that the local educational agency (LEA) has provided a 15-day ESY program instead of a 20-day ESY program. | Linda Ramos, President; Alpine Teachers Association;  January 29, 2023;  Support.  Matt Busacco, CSEA Board President; California School Employees Association #607;  February 21, 2023; Support. | February 18, 2023 | The LEA may not provide a 15-day ESY program |

Created by the California Department of Education

# Attachment 2: Waiver 2-3-2023 Alpine Union Elementary School District

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 3767967

Waiver Number: 2-3-2023

Active Year: 2023  
Date In: 3/2/2023 7:46:01 AM

Local Education Agency: Alpine Union Elementary  
Address: 2001 Tavern Rd  
Alpine, CA 91901

Start: 6/15/2023   
End: 7/7/2023

Waiver Renewal: Yes  
Previous Waiver Number: 17-3-2022-W-06  
Previous SBE Approval Date: 7/13/2022

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: The Alpine Union School District is requesting the State Board of Education to once again renew a waiver to provide extended school year (ESY) services in fewer than the 20 school days required by law for the extended school year. AUSD utilized an alternate schedule in our 2019, 2020 and 2021 ESY program that allowed us to provide the required number of hours but in fewer days. AUSD is proposing to provide ESY services utilizing a 15-day schedule of 5.5 hours per day totaling 4,620 hours of instruction. The proposed schedule will actually provide more instructional time than the 20-day ESY schedule. The ESY waiver schedule will improve the participation of highly qualified staff and student attendance. Both employee associations, the Alpine Teachers Association, and the Classified State Employees Association and its Chapter #607, were consulted on the proposed plan for ESY and support the alternate schedule.

Student Population: 1576

City Type: Rural

Public Hearing Date: 2/8/2023  
Public Hearing Advertised: On our website, as well as posted at each school site.

Local Board Approval Date: 2/18/2023

Community Council Reviewed By: Senior Management Planning Committee  
Community Council Reviewed Date: 1/26/2023  
Community Council Objection: No

Audit Penalty Yes or No: No  
Categorical Program Monitoring: No

Submitted by: Ms. Yvette Maier  
Position: Executive Director of HR and Student Services  
E-mail: [ymaier@alpineschools.net](mailto:ymaier@alpineschools.net)   
Telephone: 619-445-3236 x803

Bargaining Unit Date: 01/29/2023  
Name: Alpine Teachers Association  
Representative: Linda Ramos  
Title: ATA President  
Phone: 619-445-8676  
Position: Support

Bargaining Unit Date: 02/21/2023  
Name: California School Employee Association #607  
Representative: Matt Busacco  
Title: CSEA Board President  
Phone: 619-445-5593  
Position: Support