

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education September 2018 Agenda Item #W-13

## Subject

Request by five local educational agencies 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

* Bakersfield City Schools 25-5-2018
* Imperial County Office of Education 14-5-2018
* Meadows Union Elementary School District 23-5-2018
* Rialto Unified School District 21-5-2018
* Westmorland Union Elementary School District 1-6-2018

## Type of Action

Action, Consent

## Summary of the Issue(s)

Five local educational agencies (LEAs) request to to provide instruction in fewer than the 20 school days required by law for extended school year (ESY). Each LEA proposes an alternate schedule that will allow them to provide the minimum number of hours required, but in fewer days.

## Authority for Waiver

*Education Code (EC)* Section 33050

## Recommendation

* Approval: No
* Approval with conditions: Yes
* Denial: No

The California Department of Education (CDE) recommends the State Board of Education (SBE) approve the request from five LEAs to provide ESY services for fewer than 20 days with the condition instructional hours are consistent with those provided to the general education enrollment at the same grade level unless an individualized education program (IEP) specifies otherwise. Also, special education and related services offered during the ESY period must be comparable in standards, scope, and quality to the special education program offered during the regular academic year as required by *California Code of Regulations (CCR),* Title 5, Section 3043.

## Summary of Key Issues

### Bakersfield City Schools

Bakersfield City Schools (BCS) is proposing to provide ESY services utilizing a 13-day schedule of 6 hours and 10 minutes per day, totaling 80 hours and 10 minutes of instruction. The proposed schedule will provide more instructional time than a 20-day ESY schedule, and will allow the BCS to provide needed professional development for classroom teachers during the summer break.

Please note BCS revised the daily ESY hours listed on the waiver submission from 5 hours per day to 6 hours and 10 minutes per day.

Demographic Information: The BCS has a student population of 30,372 and is located in an urban area in Kern County.

### Imperial County Office of Education

Imperial County Office of Education (ICOE) is proposing to provide ESY services utilizing a 16-day schedule of 5 hours and 10 minutes per day, totaling 82 hours and 40 minutes of instruction. The proposed schedule will provide more instructional time than a 20-day ESY schedule, and better align the ICOE summer operation hours with schedules of LEAs that host ICOE ESY programs.

Demographic Information: The ICOE has a student population of 710 and is located in a rural area in Imperial County. Please note the student population was corrected during the SED review of the waiver.

### Meadows Union Elementary School District

Meadows Union Elementary School District (MUESD) is proposing to provide ESY services utilizing a 15-day schedule of 5 hours and 30 minutes per day, totaling 80 hours and 30 minutes of instruction. The proposed schedule will provide more instructional time than a 20-day ESY schedule, and provide continuity for delivery of instruction between general education and special education programs, allowing students with disabilities to participate more with their nondisabled peers. Fewer ESY days will also provide families with more flexibility during the summer break, and result in substantial operational cost savings for the MUESD.

Demographic Information: The MUESD has a student population of 509 and is located in a rural area in Imperial County.

### Rialto Unified School District

Rialto Unified School District (RUSD) is proposing to provide ESY services utilizing an 18-day schedule of 5 hours per day for Kindergarten through fifth grades, totaling 90 hours of instruction, and an 18-day schedule of 6 hours and 30 minutes per day for seventh through twelfth grades, totaling 117 hours of instruction. The proposed schedule will provide more instructional time than a 20-day ESY schedule, and align the ESY program with the general education summer school programs allowing students with disabilities to participate more with their nondisabled peers. Fewer ESY days will also result in substantial operational cost savings.

Demographic Information: The RUSD has a student population of 25,684 and is located in an urban area in San Bernardino County.

### Westmorland Union Elementary School District

Westmorland Union Elementary School District (WUESD) is proposing to provide ESY services utilizing a 15-day schedule of 5 hours and 30 minutes per day, totaling 82 hours and 30 minutes of instruction. The proposed schedule will provide more instructional time than a 20-day ESY schedule, and allow students to spend less time in the extreme heat of the Imperial Valley. Fewer ESY days will also result in substantial operational cost savings.

Demographic Information: The WUESD has a student population of 390 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* 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.

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 IEP requires it. LEAs may request a waiver to provide an ESY program for fewer days than the traditional mode.

## 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 (3 pages)
* **Attachment 2:** Bakersfield City Schools General Waiver Request

25-5-2018 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

* **Attachment 3:** Imperial County Office of Education General Waiver Request

14-5-2018 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

* **Attachment 4:**  Meadows Union Elementary School District General Waiver Request 23-5-2018 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 5:** Rialto Unified School District General Waiver Request

21-5-2018 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

* **Attachment 6:** Westmorland Unified School District General Waiver Request

1-6-2018 (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 | CDE Recommended | Bargaining Unit Representatives Consulted, Date and Position | Local Board and Public Hearing Approval | Penalty Without Waiver |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 25-5-2018 | Bakersfield City Schools | **Requested:**  June 13, 2018, to June 29, 2018  **Recommended:**  June 13, 2018, to June 29, 2018 | To provide a 13-day ESY program instead of a 20-day ESY program | Approval with conditions to allow the LEA to provide a 13-day ESY program instead of a 20-day ESY program | Bakersfield Elementary Teachers’ Association, Steven Comstock, President 5/2/2018 Support | 5/22/2018 | The LEA may not provide a 13-day ESY program |
| 14-5-2018 | Imperial County Office of Education | **Requested:**  June 12, 2018, to July 5, 2018  **Recommended:**  June 12, 2018, to July 5, 2018 | To provide a 16-day ESY program instead of a 20-day ESY program | Approval with conditions to allow the LEA to provide a  16-day ESY program instead of a 20-day ESY program | California School Employees Association,  Ruby Tagaban, President 4/30/2018 Support  Imperial County Office of Education Teachers Association, Barbara  McAndrews President  4/30/2018  Support | 5/14/2018 | The LEA may not provide a 16-day ESY program |
| 23-5-2018 | Meadows Union Elementary School District | **Requested:**  June 18, 2018, to July 6, 2018  **Recommended:**  June 18, 2018, to July 6, 2018 | To provide a 15-day ESY program instead of a 20-day ESY program | Approval with conditions to allow the LEA to provide a  15-day ESY program instead of a 20-day ESY program | Meadows Union Teachers Association,  Cheryl Rodriguez  President  5/8/2018  Support | 5/8/2018 | The LEA may not provide a 15-day  ESY program |
| 21-5-2018 | Rialto Unified School District | **Requested:**  June 5, 2018, to June 29, 2018  **Recommended:**  June 5, 2018, to June 29, 2018 | To provide an 18-day ESY program instead of a 20-day ESY program | Approval with conditions to allow the LEA to provide an  18-day ESY program instead of a 20-day ESY program | California School Employees Association,  Raquel Torres  President (Classified)  5/21/2018  Support  Rialto Education Association,  Lisa Lindberg  President 5/21/2018  Support | 3/28/2018 | The LEA may not provide an 18-day ESY program |
| 1-6-2018 | Westmorland Union Elementary School District | **Requested:**  June 11, 2018, to June 29, 2018  **Recommended:**  June 11, 2018, to June 29, 2018 | To provide a 15-day ESY program instead of a 20-day ESY program | Approval with conditions to allow the LEA to provide a  15-day ESY program instead of a 20-day ESY program | California Teachers Association, Michelle Padilla  President  5/8/2018  Support | 5/8/2018 | The LEA may not provide a 15-day ESY program |

Created by the California Department of Education

June 2018

# Attachment 2: Waiver 25-5-2018 Bakersfield City Schools

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1563321

Waiver Number: 25-5-2018

Active Year: 2018

Date In: 5/29/2018 8:57:00 AM

Local Education Agency: Bakersfield City Schools

Address: 1300 Baker St.

Bakersfield, CA 93305

Start: 6/13/2018

End: 6/29/2018

Waiver Renewal: No

Waiver Topic: Special Education Program

Ed Code Title: Extended School Year (Summer School)

Ed Code Section: 33050

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: Ed Code or *CCR* to Waive: Section 3043 (d): [An extended school year program shall be provided for a minimum of 20 instructional days, including holidays]

Outcome Rationale: The Bakersfield City School District successfully negotiated and implemented the addition of three non-student attendance “Academic Conference Days” to our school calendar for the 2017-2018 school year. As a result of these added days, our school year is ending two days later than normal, on Monday, June 4, 2018. The extra days on the school calendar has created an impact to our ESY summer services, resulting in the following request for a California Department of Education General Waiver:

The Bakersfield City School District proposes to provide ESY services utilizing a 13-day model (June 13 - June 29) over a three week period at 370 minutes per day (13 days x 370 minutes per day = 80 hours), providing the same instructional hours as a traditional 20-day model. Although the proposed model is a reduction in total days, this waiver is requested to support the district’s continued push to accelerate the academic achievement of all students by providing needed professional development for our classroom teachers.

The Bakersfield City School District has scheduled a comprehensive professional development series, called “Summer Institute” for our 1,600 teachers to receive training in our new ELA/ELD Curriculum and research-based pedagogical practices. In order to ensure we reach our goal of 98% teacher attendance, we have developed a summer calendar to provide all teachers teaching summer school at least two weeks off before the start of our Summer Institute. Our district continues to focus on developing the collective efficacy and instructional capacity of our teachers, and this proposed summer schedule will further support our district's efforts to close the achievement gap.

Student Population: 30372

City Type: Urban

Public Hearing Date: 5/22/2018

Public Hearing Advertised: Notice of public hearing posted in the board meeting agenda on the district website

Local Board Approval Date: 5/22/2018

Community Council Reviewed By: The Bakersfield City School District's District Advisory Committee reviewed the waiver.

Community Council Reviewed Date: 5/1/2018

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Mark Luque

Position: Assistant Superintendent Educational Services

E-mail: [luquem@bcsd.com](file:///\\CDE.Cal\DATA\SEDATA\CENTRAL\Division-wide\WAIVERS\Waiver%20Items\2018\September%20SBE%20Meeting\luquem@bcsd.com)

Telephone: 661-631-4743

Bargaining Unit Date: 05/02/2018

Name: Bakersfield Elementary Teacher's Association

Representative: Steven Comstock

Title: BETA President

Position: Support

# Attachment 3: Waiver 14-5-2018 Imperial County Office of Education

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1310132

Waiver Number: 14-5-2018

Active Year: 2018

Date In: 5/18/2018 11:29:05 AM

Local Education Agency: Imperial County Office of Education

Address: 1398 Sperber Rd.

El Centro, CA 92243

Start: 6/12/2018

End: 7/5/2018

Waiver Renewal: Yes

Previous Waiver Number: 28-2-2015-W-05

Previous SBE Approval Date: 7/08/2015

Waiver Topic: Special Education Program

Ed Code Title: Extended School Year (Summer School)

Ed Code Section: *CCR*, Title 5, 3043(d). Title 5 *California Code of Regulations* 3043(d)

Ed Code Authority: *CCR*, Title 5, 3043(d). Title 5 California Code of

*Education Code* or *CCR* to Waive: The ICOE Special Education Program is requesting a waiver to *CCR*, Title 5, 3043(d). Title 5 *California Code of Regulations* 3043(d) requires, "An extended year program shall be provided for a minimum of 20 instructional days, including holidays." The Special Education Department is proposing an Extended School Year program for the ICOE Special Education program of 16 days at 5 hours and 10 minutes per day, includes a holiday, from June 12, 2018 to July 5, 2018. This proposed schedule contains the same number of required total instructional minutes, and allows for better alignment with the ICOE summer operation hours and the host districts. By aligning all ICOE SH extended school year programs to host district programs, it reduces the summer operational supports needed to run these classrooms for both ICOE and hosting districts.

Outcome Rationale: The Imperial County Office of Education operates a "regional SH program" that serves the 16 LEAs of Imperial County. The waiver in necessary to match (as closely as possible) the calendar of our largest (and host) district - El Centro Elementary School District.

Student Population: 432

City Type: Rural

Public Hearing Date: 5/14/2018

Public Hearing Advertised: Public Posting at County Office and school sites

Local Board Approval Date: 5/14/2018

Community Council Reviewed By: Special Education Parent Teacher (PTO)

Community Council Reviewed Date: 3/13/2018

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Kurt Leptich

Position: Senior Director, Special Education

E-mail: [kleptich@icoe.org](file:///\\CDE.Cal\DATA\SEDATA\CENTRAL\Division-wide\WAIVERS\Waiver%20Items\2018\September%20SBE%20Meeting\kleptich@icoe.org)

Telephone: 760-312-6427

Bargaining Unit Date: 04/30/2018

Name: California School Employees Association

Representative: Ruby Tagaban

Title: President

Position: Support

Bargaining Unit Date: 04/30/2018

Name: Imperial County Office of Education Teacher's Asso

Representative: Barbara McAndrews

Title: President

Position: Support

# Attachment 4: Waiver 23-5-2018 Meadows Union Elementary School District

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1363198

Waiver Number: 23-5-2018

Active Year: 2018

Date In: 5/24/2018 3:31:25 PM

Local Education Agency: Meadows Union Elementary School District

Address: 2059 Bowker Rd.

El Centro, CA 92243

Start: 6/18/2018

End: 7/6/2018

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: Requested by Meadows Union School District to waive *CCR* Title 5, Section 3043(d) which requires a minimum of 20 days of school attendance for an extended school year for special education.

Outcome Rationale:

The Meadows Union School District (MUSD) requests an alternate ESY schedule that will allow it to provide the minimum number of hours required, but in fewer days, utilizing a 15-day model over a three-week period at five and one half hours per day, providing the same number of hours as in a traditional 20-day model, including holidays. The proposed model, which extends daily attendance time, results in identical time totals, but provides for a reduction in total days of attendance to 15 days, Monday through Friday, over a three-week period. The MUSD believes the proposed model will provide more continuity for delivery of instruction between general education and special education. The proposed schedule will allow special education students to participate more with their nondisabled peers, and provide their families with the flexibility to plan extended weekend breaks without interrupting students’ educational programs. It will also facilitate cost effective services within classrooms, and will reduce related costs for transportation, utilities, custodial services, food services, administration, etc.

Student Population: 509

City Type: Rural

Public Hearing Date: 5/8/2018

Public Hearing Advertised: Website and school posting

Local Board Approval Date: 5/8/2018

Community Council Reviewed By: School Site Council

Community Council Reviewed Date: 5/8/2018

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Summer Heraz

Position: Principal

E-mail: [summer.heraz@meadowsunion.org](file:///\\CDE.Cal\DATA\SEDATA\CENTRAL\Division-wide\WAIVERS\Waiver%20Items\2018\September%20SBE%20Meeting\summer.heraz@meadowsunion.org)

Telephone: 760-352-7512

Bargaining Unit Date: 05/08/2018

Name: MUTA

Representative: Cheryl Rodriguez

Title: MUTA President

Position: Support

# Attachment 5: Waiver 21-5-2018 Rialto Unified School District

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 3667850

Waiver Number: 21-5-2018

Active Year: 2018

Date In: 5/24/2018 10:48:38 AM

Local Education Agency: Rialto Unified School District

Address: 182 East Walnut Ave.

Rialto, CA 92376

Start: 6/5/2018

End: 6/29/2018

Waiver Renewal: No

Waiver Topic: Special Education Program

Ed Code Title: Extended School Year (Summer School)

Ed Code Section: *Education Code*: 5 *CCR* § 3043. Extended School Year

Ed Code Authority: 33050

Ed Code or *CCR* to Waive: 3043(d) extended year program shall be provided for a minimum of 20 instructional days, including holidays

Outcome Rationale: The Rialto Unified School District proposes to provide ESY services utilizing an 18-day model of three and one-half hours of instruction per day for preschool, five hours of instruction for K-5th grade, and 6 and one-half hours of instruction per day for middle school and high school students. The proposed schedule with allow students who receive special education services the ability to access the Learning Academies and enrichment summer school programs that enhance their exposure to the general education curriculum. Also, allows the student to have the same summer calendar offered for summer school. Parents of students are supportive of aligning with regular summer school programs. Students will receive the same, or greater, number of instructional minutes. In addition, fewer ESY days will result in savings for transportation, utilities, janitorial, food services, administration, and clerical costs.

Student Population: 25684

City Type: Urban

Local Board Approval Date: 3/28/2018

Community Council Reviewed By: District Advisory Committee

Community Council Reviewed Date: May 18, 2018

Community Council Objection: No objection

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Bridgette Ealy

Position: Lead Special Service Agent

E-mail: [bealy@rialto.k12.ca.us](file:///\\CDE.Cal\DATA\SEDATA\CENTRAL\Division-wide\WAIVERS\Waiver%20Items\2018\September%20SBE%20Meeting\bealy@rialto.k12.ca.us)

Telephone: 909-820-7700 x2372

Bargaining Unit Date: 05/21/2018

Name: California School Employees Association

Representative: Raquel Torres

Title: President (classified)

Position: Support

Bargaining Unit Date: 05/21/2018

Name: Rialto Education Association

Representative: Lisa Lindberg

Title: President

Position: Support

# Attachment 6: Waiver 1-6-2018 Westmorland Union Elementary

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1363230

Waiver Number: 1-6-2018

Active Year: 2018

Date In: 6/1/2018 4:49:44 PM

Local Education Agency: Westmorland Union Elementary

Address: 200 South C St.

Westmorland, CA 92281

Start: 6/11/2018

End: 6/29/2018

Waiver Renewal: No

Waiver Topic: Special Education Program

Ed Code Title: Extended School Year (Summer School)

Ed Code Section: 56101(a)

Ed Code Authority: 3043

*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 Westmorland Union Elementary School District has 3 students with Extended School Year recommended on their IEP's. It is very hot in the Imperial Valley and getting parents to send their children to summer school has been a hard sell especially if it goes into the month of July. We are asking that you give us a waiver to hold summer school for 15 days instead of 20 and we will feed the students lunch and keep them until 1:30 (an extra 90 minutes per day).

Student Population: 390

City Type: Rural

Public Hearing Date: 5/8/2018

Public Hearing Advertised: School website, marquee, office, local post office, phone calls to the parents.

Local Board Approval Date: 5/8/2018

Community Council Reviewed By: WUESD Board of Trustees

Community Council Reviewed Date: 5/8/2018

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Nancy Johnson

Position: Superintendent/Principal

E-mail: [n.johnson@wued.org](mailto:n.johnson@wued.org)

Telephone: 760-344-4364 x2384

Fax: 760-344-7294

Bargaining Unit Date: 05/08/2018

Name: California Teachers Association

Representative: Michelle Padilla

Title: President

Position:Support