

California Department of Education

Executive Office

SBE-005 (REV. 1/2021)

General Waiver

# California State Board of Education July 2023 Agenda Item #W-09

## Subject

Request by **Fall River Joint Unified School District** 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

3-2-2023

## 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 20, 2023, to July 11, 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, 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

### Fall River Joint Unified School District (FRJUSD)

The FRJUSD requested a reduced Extended School Year Program schedule that allowed the district to operate their program for a total of 15 days in June and July 2023, from June 20, 2023 to July 11, 2023. The FRJUSD stated that the ESY schedule provided the appropriate academic support for students, as well as, reduced the related costs for transportation and building maintenance. In addition, the FRJUSD reported that the shortened schedule allowed more flexibility for families to plan vacations and weekend breaks without interrupting the students’ educational program.

CDE verified that FRJUSD’s ESY program operated for 5.5 hours per day, five days per week (Monday through Friday, exclusive of the July 4th holiday), totaling 80 hours. This would have been the equivalent amount of hours if FRJUSD provided the ESY program for 20 days. CDE verified that the 5.5 hours per day of the ESY program would aligned with FRJUSD’s general education summer school program hours.

Demographic Information: FRJUSD has a student population of 1,174 and is located in a rural area in Shasta 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 *California Code of Regulations (CCR)*, Title 5, Section 3043(f).

## Attachment(s)

* **Attachment 1:** Summary Table (1 pages)
* **Attachment 2:** Fall River Joint Unified School District General Waiver Request 3-2-2023 (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 |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 3-2-2023 | Fall River Joint Unified School District | **Requested:**  June 20, 2023, to July 11, 2023  **Recommended:**  June 20, 2023, to July 11, 2023 | To provide a 15-day extended school year (ESY) program instead of a 20-day ESY program | Approval with conditions to allow the local educational agency (LEA) to provide a 15-day ESY program instead of a 20-day ESY program | CA Schools Employee Association CSEA, Rodd Taylor, President;  09/16/2022;  Support  Fall River Teachers Association, FRTA, Amanda Tate, President;  09/16/2022; Support | 10/12/2022 | The LEA may not provide a 15-day ESY program |

Created by the California Department of Education

May 2023

# Attachment 2: Waiver 3-2-2023 Fall River Joint Unified

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 4569989

Waiver Number: 3-2-2023

Active Year: 2023

Date In: 2/13/2023 11:03:47 AM

Local Education Agency: Fall River Joint Unified

Address: 20375 Tamarack Ave.

Burney, CA 96013

Start: 6/20/2023

End: 7/11/2023

Waiver Renewal: Y

Previous Waiver Number: 3-2-2022-W06

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: Requested by the Fall River Joint Unified School District to waive the California Code of Regulations Title 5 Section 34043(d). This requires a minimum of 20 school days for the extended school year (ESY) summer school for students with disabilities.

Outcome Rationale: The change in the number of days and the extended time to equal 80 hours of ESY will provide the appropriate academic support and will reduce related costs for transportation and building maintenance. It will allow for flexibility for families to plan vacations and weekend breaks without interrupting the students educational program.

Student Population: 1174

City Type: Rural

Public Hearing Date: 10/12/2022

Public Hearing Advertised: It was posted at all school sites and three public areas.

Local Board Approval Date: 10/12/2022

Community Council Reviewed By: Shasta County Office of Education Program Advisory Committee

Community Council Reviewed Date: 2/9/2023

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Brent Beyer

Position: Special Education Director/Psychologist

E-mail: [bbeyer@frjusd.org](mailto:bbeyer@frjusd.org)

Telephone: 530-335-3957

Fax: 530-335-3115

Bargaining Unit Date: 09/16/2022

Name: CA Schools Employee Assoc./ Fall River Teachers As

Representative: Rodd Taylor/ Amanda Tate

Title: President

Phone: [rtaylor@frjusd.org](mailto:rtaylor@frjusd.org)

[atate@frjusd.org](mailto:atate@frjusd.org)

Position: Support