

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education May 2023 Agenda Item #W-04

## 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 K.C. Loden to continue to provide services to students until   
July 31, 2023, under a remediation plan to complete those minimum requirements.

## Waiver Number

4-8-2022

## Type of Action

Action, Consent

## Summary of the Issue(s)

The State Board of Education (SBE) must determine if K.C. Loden qualifies for an educational interpreter waiver to continue to provide educational interpreting services for deaf and hard of hearing students until July 31, 2023. San Luis Obispo County Office of Education (SLOCOE) hired Ms. Loden in June of 2022, with a pre-hire Educational Interpreter Performance Assessment (EIPA) score of 3.8 that was taken in August 2021.

According to the EIPA website, testing availability varies by state. Some states, including California, have multiple testing centers, and different testing centers have different timelines. Ms. Loden was finally able to secure a testing slot on May 20, 2023.

The SLOCOE recruited for this position on [www.edjoin.org](http://www.edjoin.org) and other suitable candidates had no certification, did not pass the required examination, or withdrew from the process due to other employment.

## 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:

The SLOCOE must provide Ms. Loden with regular access to a lead education interpreter who is Registry Interpreters for the Deaf (RID)-certified holding both National Interpreter Certification (NIC) and Education kindergarten through grade twelve (K–12) certifications. The lead interpreter has been and will continue to offer regular support in the form of:

1. Mentor(s) that meets the certification of an Educational Sign Language Interpreter; the SLOCOE is also providing one-on-one mentoring and tutoring on an ongoing basis. The mentor(s) is calling Ms. Loden through videophone to practice active communication with voice, review testing comments and clarify needs, critique and support videos of her, as well as testing result comments, and observe and support her in her interpreting. The mentor(s) is communicating with Ms. Loden on a weekly basis, as needed.
2. Ms. Loden is observing other interpreters during class times, videos herself interpreting lessons for self-evaluation. She has been reviewing various blogs and vlogs about American Sign Language (ASL) grammar and syntax, and views practice ASL videos to increase her reception abilities.
3. The SLOCOE will continue to provide monthly updates to the CDE for the duration of the waiver.
4. By June 30, 2023, the SLOCOE will provide CDE with new assessment scores for Ms. Loden.

## 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.

**Assessment Overview:**

According to the EIPA Rating System, Ms. Loden, whose most recent EIPA score is 3.8, “needs continued supervision and should be required to participate in continuing education in interpreting.” The EIPA Rating System is described in the policy regarding educational interpreter waiver requests that was approved by SBE in November 2009. The SBE Policy #09-02 can be found at <https://www.cde.ca.gov/re/lr/wr/documents/interpreter.docx>.

As described in the November 2009 SBE policy, according to the EIPA Rating System, Ms. Loden’s current EIPA score of 3.8 indicates that educational interpreters with the same score:

“Demonstrate[] knowledge of basic vocabulary, but will lack vocabulary for more technical, complex, or academic topics.” The individuals are “able to sign in a fairly fluent manner using some consistent prosody, but pacing is still slow with infrequent pauses for vocabulary or complex structures. Sign production may show some errors but generally will not interfere with communication. Grammatical production may still be incorrect, especially for complex structures, but is in general intact for routine and simple language. Comprehends signed messages but may need repetition and assistance. Voiced translation often lacks depth and subtleties of the original message. An individual at this level would be able to communicate very basic classroom content, but may incorrectly interpret complex information resulting in a message that is not always clear.” **San Luis Obispo County Office of Education:**

Ms. Loden has been hired for the Interpreter for the Deaf position with the SLOCOE in June 2022. Prior to the new position, she was hired as an Instructional Assistant with signing skills on February 15, 2018, and was promoted to Interpreter for the Deaf on June 20, 2022. Ms. Loden completed the EIPA on August 17, 2021, with a final score of 3.8. She has been working in the field for over four years. SLOCOE recruited for this position via [www.edjoin.org](http://www.edjoin.org). Unfortunately, other suitable candidates had no certification, did not pass the required examination, or withdrew from the process due to other employment. Ms. Loden was selected for the position with the understanding that she would need to reach the state required EIPA score of 4.0 or higher, or other qualified certification in order to continue in the position.

**Demographic Information:**

The SLOCOE has a Deaf and Hard of Hearing student population of nine and is in the suburban part of 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. The SBE Policy #09-02 can be found at <https://www.cde.ca.gov/re/lr/wr/documents/interpreter.docx>.

## Fiscal Analysis (as appropriate)

There is no statewide fiscal impact of waiver approval.

## Attachment(s)

* **Attachment 1:** Summary Table (1 pages)
* **Attachment 2:** San Luis Obispo County Office of Education General Waiver Request 4-8-2022 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** San Luis Obispo County Office of Education: Job Description- Interpreter for the Deaf (3 pages)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 41402

| **Waiver Number** | **School District** | **Period of Request** | **Local Board Approval Date** | **Public Hearing Date** | **Bargaining Unit Representatives Consulted, Date and Position** | **Advisory Committee Consulted** |
| --- | --- | --- | --- | --- | --- | --- |
| 4-8-2022 | San Luis Obispo County Office of Education | **Requested:**  6/20/2022 to 7/31/2023  **Recommended:**  6/20/2022 to 7/31/2023 | 7/27/2022 | 7/7/2022  Advertised on website, posted at main office, and email distribution | Jennie Curto  President  California School Employees Association  Chapter #444  06/15/2022  **Support** | Personnel Commission  7/27/2022  **Support** |

Created by California Department of Education  
March 2023

# Attachment 2: San Luis Obispo County Office of Education General Waiver Request 4-8-2022

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 4010405

Waiver Number: 4-8-2022

Active Year: 2022

Date In: 8/22/2022 10:04:40 AM

Local Education Agency: San Luis Obispo County Office of Education

Address: 3350 Education Dr.

San Luis Obispo, CA 93405

Start: 6/20/2022

End: 7/31/2023

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: 33050-33053

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 TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.]

Outcome Rationale: K.C. Loden has been hired for the Interpreter for the Deaf position with the San Luis Obispo County Office of Education. She was hired as an Instructional Assistant with signing skills 2/15/2018 and was promoted to Interpreter for the Deaf on 6/20/2022. K.C completed the EIPA exam on 8/17/2021 with a final score of 3.8. She has been working in the field for over 4 years. San Luis Obispo County Office of Education recruited for this position via www.edjoin.org. Unfortunately, other suitable

candidates had no certification, did not pass the required exam, or withdrew from the process due to other employment. K.C was selected for the position with the understanding that she would need 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: 9

City Type: Suburban

Public Hearing Date: 7/7/2022

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

Local Board Approval Date: 7/27/2022

Community Council Reviewed By: Personnel Commission

Community Council Reviewed Date: 7/27/2022

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Lindsey Eckersley

Position: Human Resources Specialist

E-mail: [leckersley@slocoe.org](mailto:leckersley@slocoe.org)

Telephone: 805-782-7264

Bargaining Unit Date: 06/15/2022

Name: CSEA

Representative: Jennie Curto

Title: CSEA Chapter President

Phone: (805)782-7251

Position: Support

# Attachment 3: San Luis Obispo County Office of Education Job Description

**California Department of Education**

**WAIVER SUBMISSION – General**

SAN LUIS OBISPO COUNTY OFFICE OF EDUCATION

JOB TITLE: INTERPRETER FOR THE DEAF

REPORTS TO: Executive Director, Special Education

SUPERVISES: No supervisory responsibilities

DEFINITION:

Assist in providing educational programs for students who are deaf/hard of hearing, and who may also have other physical or mental disabilities. Perform a variety of routine tasks to assist and care for children assigned to school programs.

QUALIFICATIONS:

Required:

1. High school diploma or equivalent.
2. Knowledge of a variety of sign language systems and methods of effective presentation.
3. First Aid and CPR certification (provided by SLOCOE) must be obtained within 130 days of employment.
4. Certification by the national RID or have achieved a passing score, as required by regulation, on the EIPA, the ESSE-I, or the NAD/ACCI assessment.
5. Valid California Driver’s License.

Desired:

1. Experience working with special education students.
2. One year experience, paid or unpaid, working with deaf/hard of hearing students as an interpreter in an educational setting.

KNOWLEDGE AND ABILITY:

1. Knowledge of sign system required by the student.
2. Knowledge of methods and techniques used in communicating with deaf and hard of hearing children.
3. Knowledge of technical signs and/or vocabulary used in classes to which assigned.
4. Knowledge of code of Ethics prepared by the Registry of Interpreters of the Deaf.
5. Knowledge of basic subjects taught in schools including arithmetic, grammar, spelling, language and reading.
6. Knowledge of correct English usage, grammar, spelling, punctuation and vocabulary.
7. Ability to apply special education program philosophies, concepts, methods and procedures.
8. Ability to establish and maintain effective relationships with adults and children.
9. Ability to understand and follow oral and written directions.
10. Ability to speak, read and write in English clearly and distinctly.
11. Ability to carry on normal speech and hearing activities.
12. Ability to maintain confidentiality of information regarding students.
13. Ability to meet schedule and timelines.
14. Ability to drive a car.
15. Ability to maintain regular and reliable attendance.
16. Ability to use good judgment to make decisions.

ESSENTIAL FUNCTIONS:

1. Serve as a facilitator of communication between deaf/hard of hearing students and hearing persons.
2. Provide sign to voice/voice to sign interpreting that matches the student’s language level. Sign Language may include American Sign Language, a form of manually coded English, and/or oral interpreting depending on the needs of the students. Use signing, finger-spelling, and/or simultaneous communication (sign and voice) to help implement goals and objectives for students.
3. Assist students in developing appropriate communications and social/behavioral skills.
4. Perform student care tasks such as feeding and personal hygiene as necessary.
5. Reinforce classroom instruction and Individual Education Plans (IEP) by providing individual or group instruction in academic subjects, communication, self-help, psycho-motor, pre-vocational, and social behavioral skills.
6. Facilitate student learning by assisting the teacher in preparing instructional materials for the assigned student.
7. Provide student care by supervising students during all activities within all school facilities, on field trips, and during extracurricular activities and parent meetings when necessary.
8. Escort students to and from designated locations as assigned. Accompany students on field trips, recreational functions, social events and during outdoor activities.
9. Travel using personal car, with mileage reimbursement, to student homes, hospital, or other settings if required for itinerant positions.
10. Operate a variety of office and classroom equipment including a copier, fax machine, computer and assigned software.
11. Under the direction of assigned teacher, communicate with faculty, staff, administrators, parents and others to exchange information and resolve issues or concerns. Answer telephone calls, take messages and provide general class and student information to parents and others as assigned.
12. Provide routine first aid to injured students according to established procedures as needed. Administer medications according to prescribed instructions as required. Respond to medical emergencies and prepare related paperwork as appropriate.
13. Participate in and attend meetings as requested. Provide interpretations as requested.
14. Provide consultation with the supervising teacher on a regular basis.
15. Assist in care and use of amplification, as required.
16. Handle confidential information and materials with complete security.
17. Other duties as required within the scope and skill level of the job classification.

ENVIRONMENT:

Indoor/outdoor work environment.

PHYSICAL DEMANDS:

1. Dexterity of hands and fingers to sign and to operate specialized equipment and a computer keyboard.
2. Hearing and speaking to exchange information to be understood at normal levels with or without hearing aids.
3. Seeing to read printed matter with or without visual aids.
4. Sit, stand, walk, twist, bend over, crawl, grasp, reach overhead, stoop, and kneel.
5. Physical agility to lift 25 pounds to shoulder height and 50 pounds to waist height. Kneeling or crouching to assist students and carrying, pushing or pulling heavy objects.
6. Two person lift if over 50 pounds and/or the physical agility to manipulate and move a handicapped child weighing 80 pounds; to position a student who may weigh 150 pounds or more, and to manipulate wheelchairs and orthopedic devices.