

California Department of Education

Executive Office

SBE-005 (REV. 1/2021)

General Waiver

# California State Board of Education September 2023 Agenda Item #W-05

## Subject

Request by **Saint Helena 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

1-4-2023

## 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 12, 2023, to June 30, 2023. The CDE recommends no conditions at this time as 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 *California Code of Regulations* (*CCR*)*,* Title 5, Section 3043.

## Summary of Key Issues

### Saint Helena Unified School District

The Saint Helena Unified School District (SHUSD) requested a reduced Extended School Year Program schedule that allowed the district to operate their program for a total of 15 days in June, 2023, from June 12, 2023, to June 30, 2023. The SHUSD stated that the shortened ESY schedule was implemented to align with their other general education summer programming options which allowed for greater access for inclusion. In addition, SHUSD stated that this schedule increased the participation of highly qualified classroom teachers and staff who work with students during the school year. The SHUSD stated that the schedule helped to facilitate cost-effective services within classrooms, reduced related costs for transportation, custodial services, food services, and administration.

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

**Demographic Information**: The SHUSD has a student population of 1,187 and is located in a rural area in Napa 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:** Saint Helena Unified School District General Waiver Request 1-4-2023 (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 |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1-4-2023 | Saint Helena Unified School District | **Requested:**  June 12, 2023, to June 30, 2023  **Recommended:**  June 12, 2023, to June 30, 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) provided a 15-day ESY program instead of a 20-day ESY program. | Brandon Farrell, President; Saint Helena Teachers Association;  February 28, 2023;  Support. | March 27, 2023 | The LEA may not provide a 15-day ESY program |

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# Attachment 2: Waiver 1-4-2023 Saint Helena Unified School District

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 2866290

Waiver Number: 1-4-2023

Active Year: 2023  
Date In: 4/3/2023 12:22:40 PM

Local Education Agency: Saint Helena Unified  
Address: 465 Main St.  
St. Helena, CA 94574

Start: 6/12/2023   
End: 6/30/2023

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

Outcome Rationale: Saint (St.) Helena Unified School District requests to waive the California Education Code of Regulations, Title 5, Section (d0, which requires a minimum of 20 school days of attendance of four hours each for an extended school year (ESY) for special education students.

St. Helena Unified is proposing an alternative schedule that will allow us to provide the minimum number of instructional hours required, but in fewer days than the required 20 days. St. Helena is proposing a three-week ESY program over 15 days. The proposed schedule would be June 12, 2023, to June 30, 2023, Monday through Friday from 8:30 am to 2:00 pm for a total of 5.5 hours. The total number of instructional hours would be 15 days for 82.5 hours, including holidays, \*three weeks) as opposed to the normal 20 days (four weeks) 80 hours.

St. Helena believes the proposed model will:

1) align with our other general education summer programming options which will allow for greater access to possible inclusion within summer programming

2) Continue to increase the participation of highly qualified and trained classroom teachers and staff who work with students during the school year to also apply to work during ESY

3) Help facilitate cost-effective services within classrooms and reduce related costs for transportation, custodial services, food services, and administration.

Student Population: 18

City Type: Rural

Public Hearing Date: 2/27/2023  
Public Hearing Advertised: Public Hearing Notices at all school sites and website

Local Board Approval Date: 3/27/2023

Community Council Reviewed By: Special Education Committee and School Site Council (RLS)  
Community Council Reviewed Date: 2/24/2023  
Community Council Objection: No

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

Submitted by: Ms. Mary Allen  
Position: Director of Curriculum and Instruction  
E-mail: [mallen@sthelenaunified.org](mailto:mallen@sthelenaunified.org)  
Telephone: 707-967-2708

Bargaining Unit Date: 02/28/2023  
Name: St. Helena Teachers Association (SHTA)  
Representative: Brandon Farrell  
Title: SHTA President  
Phone: [bfarrell@sthelenaunifeid.org](mailto:bfarrell@sthelenaunifeid.org)   
Position: Support