

California Department of Education

Executive Office

SBE-005 (REV. 1/2021)

General Waiver

# California State Board of Education January 2025 Agenda Item #W-01

## Subject

Request by **three 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

* Tuolumne County Superintendent of Schools 8-4-2024
* Lake County Office of Education 11-4-2024
* Mariposa County Office of Education 4-5-2024

## Type of Action

Action, Consent

## Summary of the Issue(s)

Three local educational agencies (LEAs) requested to provide instruction in fewer than the 20 school days required by law for extended school year (ESY). Each LEA had an alternate schedule that allowed them to provide hours consistent with and comparable to the number of hours that would have been provided to students if the length of the ESY was 20 days, 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 requests from the three LEAs to provide ESY services for fewer than 20 days. The CDE recommends no conditions at this time as these waiver requests are retroactive and the LEAs 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 and comparable to 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

### Tuolumne County Superintendent of Schools

The Tuolumne County of Superintendent of Schools (TCSOS) requested an alternative ESY program schedule of 15 days, from June 11 to July 2, 2024. The TCSOS indicated that this schedule would provide more instructional time than the traditional 20 day ESY schedule.

The CDE verified that the TCSOS program operated 5.5 hours per day, five days per week, Monday through Friday (exclusive of the Juneteenth holiday), totaling 82.5 hours. This is consistent with and comparable to the number of hours the TCSOS would have provided in an ESY program of 20 days. The CDE verified that the ESY program aligned with the TCSOS general education summer school program hours.

**Demographic Information:** The TCSOS has a student population of 60 and is located in a rural area in Tuolumne County.

### Lake County Office of Education

The Lake County Office of Education (LCOE) requested an alternative ESY program schedule of 14 days, from June 10 to June 28, 2024. The LCOE stated this schedule allowed for more time each day to go on field trips and provide more engaging hands-on activities and experiments that a shorter day wouldn’t allow.

The CDE verified that the LCOE program operated for 5.75 hours per day, five days per week, Monday through Friday (exclusive of the Juneteenth holiday) totaling 80.5 hours. This is consistent with and comparable to the amount of hours the LCOE would have provided in an ESY program of 20 days. The CDE verified that the ESY program aligned with the LCOE general education summer school program hours.

**Demographic Information:** The LCOE has a student population of 31 and is located in a rural area in Lake County.

### Mariposa County Office of Education

The Mariposa County of Education (MCOE) requested an alternative ESY program schedule of 14 days, from June 10 to June 28, 2024. The MCOE stated that this schedule was preferred by parents and staff. Additionally, it allowed for families and staff to have the entire month of July off for vacation and travel.

The CDE verified that the MCOE program operated 6 hours per day, 5 days a per week, Monday through Friday (exclusive of the July 4th holiday), totaling 84 hours. This is consistent with and comparable to the number of hours MCOE would have provided in an ESY program of 20 days. The CDE verified that the ESY program aligned with the MCOE general education summer school program hours.

**Demographic Information:** The MCOE has a student population of 54 and is located in a rural area in Mariposa 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 ESY in fewer than 20 days if the alternative schedule consistent with and comparable to the amount of instruction that would have been provided to students if the length of the ESY was 20 days.

## Fiscal Analysis

There is no statewide fiscal impact of waiver approval. However, in order for a LEA to qualify for average daily attendance (ADA) revenues for extended year pupils, LEAs must comply with the ADA requirements in 5 *CCR* Section 3043(f).

## Attachment(s)

* **Attachment 1:** Summary Table (3 pages)
* **Attachment 2:** Tuolumne County Superintendent of Schools

General Waiver Request 8-4-2024 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

* **Attachment 3:** Lake County Office of Education General Waiver Request 11-4-2024 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 4:** Mariposa County Office of Education General Waiver Request 4-5-2024 (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, Position | Local Board and Public Hearing Approval | Penalty Without Waiver |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 8-4-2024 | Tuolumne County Superintendent of Schools | **Requested:**  June 11, 2024, to July 2, 2024  **Recommended:**  June 11, 2024, to July 2, 2024 | 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 LEA has provided a 15-day ESY program instead of a 20-day ESY program | Brian Ward, Tuolumne County Special Educator’s Federation President;  1-16-24;  Support. | April 8, 2024; March 11, 2024 | The LEA may not provide a 15-day ESY program |
| 11-4-2024 | Lake County Office of Education | **Requested:** June 10, 2024 to June 28, 2024  **Recommended:** June 10, 2024 to June 28, 2024 | To provide a 14-day ESY program instead of a 20-day ESY program | Retroactive approval with no conditions, as the CDE has verified that the LEA has provided a 14-day ESY program instead of a 20-day ESY program | No Bargaining Unit | April 10, 2024 | The LEA may not provide a 14-day ESY program |

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| --- | --- | --- | --- | --- | --- | --- | --- |
| 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 |
| 4-5-2024 | Mariposa County Office of Education | **Requested:**  June 7, 2024, to June 28, 2024  **Recommended:**  June 10, 2024, to June 28, 2024 | To provide a 14-day ESY program instead of a 20-day ESY program | Retroactive approval with no conditions, as the CDE has verified that the LEA has provided a 14-day ESY program instead of a 20-day ESY program | Ben Jewell, President; Mariposa Teachers Union; 4-25-24, Support.  Chris Bernstein, President, Mechanic, Classified State Employees Association; 4-19-24; Support.  . | May 9, 2024 | The LEA may not provide a 14-day ESY program |

Created by the California Department of Education

January 2025

# Attachment 2: Tuolumne County Superintendent of Schools District General Waiver 8-4-2024

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 5510553

Waiver Number: 8-4-2024

Active Year: 2024

Date In: 4/15/2024 11:24:53 AM

Local Education Agency: Tuolumne County Superintendent of Schools

Address: 175 Fairview Lane

Sonora, CA 95370

Start: 6/11/2024

End: 7/2/2024

Waiver Renewal: Yes

Previous Waiver Number: 5-5-2023-W-07

Previous SBE Approval Date: 9/20/2023

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: California *Education Code* of Regulations, Title 5, Section 3043(d), whihc requires a minimum of 20 school days

Outcome Rationale: Tuolumne County Superintendent of Schools proposes to provide Extended School Year (ESY)services utilizing a 15-day model over a four week period, equivalent to the number of instructional hours provided in a 20-day instructional day calendar by lengthening the daily schedule. The proposed schedule would be from June 11, 2024- July 2, 2024 and will exclude June 19, 2024 in observance of the federal holiday. The proposed school days would be 5.5 hours of instruction per day for the duration of the program.

Student Population: 52

City Type: Rural

Public Hearing Date: 3/11/2024

Public Hearing Advertised: website, posting on building and posting in programs

Local Board Approval Date: 4/8/2024

Community Council Reviewed By: Community Advisory Committee

Community Council Reviewed Date: 2/6/2024

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Jocelyn Perlow

Position: Program Specialist

E-mail: [jperlow@tcsos.us](mailto:jperlow@tcsos.us)

Telephone: 209-536-2000 x2057

Bargaining Unit Date: 01/16/2024

Name: Tuolumne County Special Educator's Federation, AFT

Representative: Brian Ward

Title: Union President

Phone: 209-536-2000

Position: Support

# Attachment 3: Lake County Office of Education District General Waiver 11-4-2024

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1710173

Waiver Number: 11-4-2024

Active Year: 2024

Date In: 4/17/2024 11:11:44 AM

Local Education Agency: Lake County Office of Education

Address: 6945 Old Hwy 53

Clearlake, CA 95422

Start: 6/10/2024

End: 6/28/2024

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: “(d) An extended year program shall be provided for a minimum of 20 instructional days, including holidays.” Cal. Code Regs. tit. 5 § 3043

Outcome Rationale: During the 2018 - 2019 school year the Clearlake Creativity School was forced to apply for a waiver due to the impact the fires had on the school year. Extending the summer school day by a little over an hour daily allowed the ESY program to meet the required minimum of 80 hours with a 3-week time period. Feedback from staff and families has indicated that this schedule is preferred to the original 4-week, 4-hour per day schedule. When Principal Tan spoke to the California Department of Education (CDE) regarding the waiver, they indicated that as long as all stakeholders agreed and the 80-hour requirement is met that it would be permissible to continue with this schedule if preferred. The modified schedule allows more time each day to go on field trips and provide engaging hands-on activities and experiments that a shorter day doesn't allow.

Student Population: 23

City Type: Rural

Public Hearing Date: 4/10/2024

Public Hearing Advertised: Posting of board meeting notice with agenda

Local Board Approval Date: 4/10/2024

Community Council Reviewed By: School Site Council

Community Council Reviewed Date: 3/21/2024

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Matt Russell

Position: Principal

E-mail: [mrussell@lakecoe.org](mailto:mrussell@lakecoe.org)

Telephone: 707-995-9006 x404

# Attachment 4: Mariposa County Office of Education General Waiver Request 4-5-2024

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 2210223

Waiver Number: 4-5-2024

Active Year: 2024

Date In: 5/10/2024 12:11:10 PM

Local Education Agency: Mariposa County Office of Education

Address: 5082 Old Highway North

Mariposa, CA 95338

Start: 6/7/2024

End: 6/28/2024

Waiver Renewal: No

Waiver Topic: Special Education Program

Ed Code Title: Extended School Year (Summer School)

Ed Code Section: 5 *CCR*, Section 3043(d)

Ed Code Authority: 33050

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

Outcome Rationale: Monarch Academy is a program for severely handicapped students in a very small, rural community. Our program is about 45 to 60 minutes from a city; therefore, staffing and transportation always present unique challenges for us. We would like to reduce the number of instructional days from 20 to 14 (six hour days), because this is preferred by parents and staff--staff are generally open to working over the summer if they have a full month off in July. This was approved by our SSC and a public hearing was held for input on 5/9/24.

Student Population: 25

City Type: Rural

Public Hearing Date: 5/9/2024

Public Hearing Advertised: Public Hearing Notice posted at District Office and at all Sites and shared on District and School Site Social Media. Also, publicized as part of board meeting.

Local Board Approval Date: 5/9/2024

Community Council Reviewed By: Monarch Academy School Site Council

Community Council Reviewed Date: 3/22/2024

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Marcia Miller

Position: Director of Student Support Services

E-mail: [mlmiller@mcusd.org](mailto:mlmiller@mcusd.org)

Telephone: 559-287-8351

Bargaining Unit Date: 04/25/2024

Name: Mariposa Teachers Union

Representative: Ben Jewell

Title: Teacher

Phone: 209-742-0260 X2224

Position: Support

Bargaining Unit Date: 04/19/2024

Name: Classified State Emp. Association

Representative: Chris Bernstein

Title: Mechanic

Phone: 209-742-0260 X2224

Position: Support