

# COLUSA UNIFIED SCHOOL DISTRICT

TRUSTEES:  
MR. LINCOLN FORRY  
MR. TERRY BRESSLER  
MR. CHARLES YERXA  
MRS. KELLI GRIFFITH-GARCIA  
MRS. KATHIE WHITESELL

745 TENTH STREET, COLUSA, CA 95932  
PHONE: (530) 458-7791 • FAX: (530) 458-4030

DWAYNE NEWMAN  
DISTRICT SUPERINTENDENT



## PARENTAL WAIVERS FOR ENGLISH LEARNERS

The purpose of this letter is to remind you about the laws and regulations governing parental waivers as they relate to instruction for English learners (ELs).

California Education Code (EC) Section 305 requires that, except by parental waiver, all children be placed in English language classrooms. ELs are to be educated through sheltered English immersion during a temporary transition period not normally intended to exceed one year. Once ELs have acquired a good working knowledge of English, they shall be transferred to English language mainstream classrooms.

Per EC Section 310, the requirement to place an EL in an English language classroom may be waived with prior written informed consent, to be provided annually, of the child's parent or legal guardian. Under approved parental waivers, children may be transferred to classes where they are taught English and other subjects through bilingual education techniques or other generally recognized educational methodologies permitted by law.

At any time, including during the school year, a parent or guardian may have his or her child moved into an English language mainstream classroom. This does not entail going through the waiver process. The parent or guardian need only request this placement (California Code of Regulations, Title 5 [5 CCR] Section 11301[b]).

### Parental Notification of Waiver Opportunity

Per 5 CCR Section 11309(a), all parents and guardians must be informed of the placement of their children in a structured English immersion program and must be notified of an opportunity to apply for a parental exception waiver. The notice shall include a description of the locally-adopted procedures for requesting a parental exception waiver, and any locally-adopted guidelines for evaluating a parental waiver request.

### Circumstances in Which a Parental Waiver May Be Granted

Under EC Section 311, a waiver may be allowed based on any one of the following three conditions:

(1) Children who already know English: The child already possesses good English language skills, as measured by standardized tests of English vocabulary comprehension, reading, and writing, in which the child scores at or above the state average for his or her grade level or at or above the fifth grade average, whichever is lower. Per 5 CCR Section 11309(e), if standardized assessment data is not available for the student, school districts may use equivalent measures as determined by the local governing board.

(2) Older children: The child is age 10 years or older, and it is the informed belief of the school principal and educational staff that an alternate course of educational study would be better suited to the child's rapid acquisition of basic English language skills.

(3) Children with special needs: The child already has been placed for a period of not less than 30 calendar days during that school year in an English language classroom, and it is subsequently the informed belief of the school principal and educational staff that the child has such special physical, emotional, psychological, or educational needs that an alternate course of educational study would be better suited to the child's overall educational development. A written description of these special needs must be provided and any such decision is to be made subject to the examination and approval of the local school superintendent, under guidelines established by and subject to the review of the local board of education and ultimately the State Board of Education. The existence of such special needs shall not compel issuance of a waiver, and the parents shall be fully informed of their right to refuse to agree to a waiver.

### **Procedures for Granting Parental Exception Waivers**

- School districts shall establish procedures for granting parental exception waivers (5 CCR11309[b]).
- Parents or guardians must personally visit the school to apply for a waiver (EC 310).
- Waiver requests must be submitted annually (EC 310).
- At the school, parents and guardians applying for a waiver must be provided with a full written description and on request from a parent or guardian, a spoken description of the structured English immersion program and any alternative courses of study and all educational opportunities offered by the school district and available to the pupil. A full description of the educational materials to be used in the different options shall also be provided (EC 310; 5 CCR 11309[b][1]).
- For a waiver based on special needs, parents and guardians must be informed that the pupil must be placed for at least 30 calendar days in an English language classroom, and that the school district superintendent must approve the waiver pursuant to guidelines established by the local governing board (5 CCR 11309[b][2]).
- Parental exception waivers shall be granted unless the school principal and educational staff have determined that an alternative program offered at the school would not be better suited for the overall educational development of the pupil (5 CCR 11309[b][4]).
- Individual schools in which 20 pupils or more of a given grade level receive a waiver shall be required to offer such a class; otherwise, they must allow the pupils to transfer to a public school in which such a class is offered (EC 310).

### **Recommendation of Waivers**

The school principal and educational staff may recommend a waiver based on age or special needs to a parent or guardian. Parents and guardians must be informed in writing of any such recommendation for an alternative program and must be given notice of their right to refuse to agree to a waiver. The notice shall include a full description of the recommended alternative program and the educational materials to be used for the alternative program as well as a description of all other programs available to the pupil. If the parent or guardian elects to request the recommended alternative program, he or she must comply with all procedures applicable to a parental exception waiver (EC 311(b) and (c); 5 CCR 11309[b][3]).

## Denial of Waivers

In cases where a waiver based on the age or special needs of the child is denied, the parents or guardians must be informed in writing of the reasons for denial and advised that they may appeal the decision to the local board of education if such an appeal is authorized by the local board of education, or to the court (5 CCR 11309[d]).

## Deadlines for Acting on a Waiver Request

- All parental exception waivers shall be acted upon by the school within 20 instructional days of submission to the school principal (5 CCR 11309[c]).
- However, parental waiver requests based on special needs shall not be acted upon during the 30-day placement in an English language classroom. These waivers must be acted upon either no later than 10 calendar days after the expiration of the 30-day placement, or within 20 instructional days of submission of the waiver to the school principal, whichever is later (5 CCR 11309[c]).

## Definitions

EC Section 306 provides the following definitions:

- “English learner” means a child who does not speak English or whose native language is not English and who is not currently able to perform ordinary classroom work in English, also known as a Limited English Proficiency or LEP child.
- “English language classroom” means a classroom in which the language of instruction used by the teaching personnel is overwhelmingly the English language, and in which such teaching personnel possess a good knowledge of the English language.
- “English language mainstream classroom” means a classroom in which the pupils either are native English language speakers or already have acquired reasonable fluency in English.
- “Sheltered English immersion” or “structured English immersion” means an English language acquisition process for young children in which nearly all classroom instruction is in English but with the curriculum and presentation designed for children who are learning the language.
- “Bilingual education/native language instruction” means a language acquisition process for pupils in which much or all instruction, textbooks, and teaching materials are in the child’s native language.

If you have any questions regarding this subject, please contact Kathy Aplanalp, by phone at 530-458-5853 or 530-458-7631 or by email at [kaplanalp@colusa.k12.ca.us](mailto:kaplanalp@colusa.k12.ca.us).

Sincerely,



Dwayne Newman