

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education May 2022 Agenda Item #W-09

## Subject

Request by **Los Angeles Unified School District** to waive portions of California *Education Code* Section 51222(a), related to the statutory minimum requirement of 400 minutes of physical education each 10 school days for students in grades nine through twelve in order to implement a block schedule at the Academy of Scientific Exploration at Cesar Chavez Learning Center Academies.

## Waiver Number

7-2-2022

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Academy of Scientific Exploration at Cesar Chavez Learning Center Academies (Chavez ASE) is requesting to implement a 4X4 block schedule where students receive 792 minutes of Physical Education (PE) instruction each 10 school days for 18 weeks. California *Education Code* (*EC*) Section 51222(a) requires a minimum of 400 minutes each 10 school days for the entire school year. Chavez ASE students only take PE for one semester; therefore, Los Angeles Unified School District (LAUSD) is seeking a waiver of *EC* Section 51222(a).

Given that Chavez ASE does not meet the PE instructional minute requirement, LAUSD has requested to have the following explanation entered into this document:

Chavez ASE fully acknowledges that while the 2021-2022 instructional schedule meets the requirement of the 18-week semester, it has become evident that Chavez ASE does not meet the recommended 800-minute per ten-day requirement outlined in SB Policy 99-03. Our school has fallen eight minutes short of this requirement. With this in mind, we will be exploring our options to adjust the instructional minutes for the 2022-2023 school year in our up-and-coming Governing School Council meetings. Given we are in the third term of the instructional school year, logistical and procedural challenges do not afford us the opportunity to make the adjustment at this time. We are a continuation high school that does not have the same flexibility in scheduling as the other comprehensive schools due to limited staffing and less students which limits the choices in the master schedule. We are requesting our application to be considered with the understanding that next year’s instructional blocks will meet the minute 800-minute requirement set forth by SB Policy-03. Please note that the initial transition to the 4x4 schedule was based on recommendation from the Los Angeles Unified School District (LAUSD) Superintendent.

## Authority for Waiver

*EC* Section 33050

## Recommendation

* Approval: No
* Approval with conditions: Yes
* Denial: No

*EC* Section 33051(b) will NOT apply and the district must renew this waiver before August 6, 2024 (two years less two days), consistent with State Board of Education (SBE) Waiver Policy 99-03. The district must adopt a school schedule at Chavez ASE to provide courses of PE a minimum of 18 weeks in 80–90 minute daily class periods during the regular school year for the 2022–23 and 2023–24 academic school years.

This waiver is not retroactive and will not waive physical education mandatory instructional minutes or related audit findings for 2021–22. The district must also create a uniform way for the school site to document and report to the district evidence of compliance; the district will collect documentation that provides evidence of compliance for each waiver criteria applicable to SBE Waiver Policy 99-03 annually.

## Summary of Key Issues

*EC* Section 51222(a) establishes requirements for minimum instructional minutes of PE, 400 minutes each 10 school days for pupils in grades seven through twelve. Chavez ASE will implement a block schedule in grades nine through twelve that does not provide each student with PE instruction for a minimum of 400 minutes each 10 school days.

Chavez ASE students are enrolled in PE for only 18 weeks of the school year, receiving instruction for an average of 79 minutes per school day. This means that PE is taught for 396 minutes per school week (or 792 minutes each 10 days). Therefore, the actual time that LAUSD high school students are enrolled in PE does not meet the minimum minute requirements, if added on an annual basis (7,128 minutes).

| **Sample Student Schedules** | **Fall Term**  18 Consecutive Weeks | **Spring Term**  18 Consecutive Weeks |
| --- | --- | --- |
| Student A | Minutes per week of PE Instruction = 396 | Minutes per week of PE Instruction = 0 |
| Student B | Minutes per week of PE Instruction = 0 | Minutes per week of PE Instruction = 396 |

The California Department of Education (CDE) has worked closely with LAUSD to ensure that all criteria have been met to a high degree of completion. The district has provided evidence indicating they have met the criteria for this waiver as follows:

1. The PE instructional program at Chavez ASE does not comply with federal and state statutes and regulations related to PE pertaining to minimum minute requirements; instruction is based on PE content standards; and instruction is aligned with the *Physical Education Framework* *for California Public Schools* (sequential, articulated, and age-appropriate instruction).
2. The district has developed a PE professional development plan for teachers who deliver instruction in PE at that school.
3. The students are not enrolled in courses of PE a minimum of 18 weeks in 80–90 minute daily class periods during the regular school year.
4. The district described a method by which it will monitor students’ maintenance of their personal physical activity programs during the weeks they are not participating in a PE course at their school. The monitoring programs includes: student accountability for participation in physical activity, guidance for students in using the principles of exercise to design and complete their physical activity program and specific information regarding the design, and delivery of the monitoring program.
5. The PE program complies with *California Code of Regulations*, Title 5, Article 3.1, Section 10060.
6. All eligible students are prepared for and participate in the physical performance testing as specified in *EC* Section 60800.
7. Alternate day scheduling for PE rather than alternate term scheduling has been thoroughly investigated by the district.

When the district is identified for a Federal Program Monitoring (FPM) review by the CDE, Chavez ASE, in the LAUSD, shall have PE reviewed as a part of the district’s FPM process.

The data below includes the most recent California Physical Fitness Test (PFT) scores from the 2018–19 school year. This is due to the 2019–20 Executive Order N-56-20 and the 2020–21 Section 68, of Senate Bill 820 (Chapter 110, 2020), suspending the PFT respectively.

As required by SBE Waiver Policy 99-03, PE Requirements for Block Schedules, the 2017–18 and 2018–19 PFT data from Chavez ASE was reviewed and indicates that in 2018–19, 19 percent of the grade nine students met all six out of six fitness standards on each of the PFT items. This indicates a 2 percent decrease from their 2017–18 (21 percent) scores.

Chavez ASE acknowledges that the school has provided insufficient instructional minutes in the 2021–22 school year. The school has provided CDE a copy of their 2022–23 schedule with evidence that sufficient minutes will be provided in the 2022–23 school year and beyond.

Should the SBE grant this waiver, the waiver would authorize the school to provide a block schedule in the 2022–23 and 2023–24 school years. The waiver would not address any insufficiency in the minutes offered during the 2021–22 school year.

## 2021–22 Physical Fitness Testing

For the 2021–22 school year, local educational agencies (LEAs) will not be required to report the raw PFT scores including the reporting of each component of the Healthy Fitness Zones to the CDE. Instead, LEAs will be required to submit participation results (by component and grade) as part of their annual School Accountability Report Card.

**Demographic Information:** LAUSD has a student population of 574,000 and is located in an urban area located in Los Angeles County. The student enrollment for Chavez ASE that is applying for the Block Schedule Waiver is 445 students.

**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 on the California Legislative Information web page at** <http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051>.

## Summary of Previous State Board of Education Discussion and Action

SBE Waiver Policy 99-03, PE Requirements for Block Schedules, which was last revised in July 2006, establishes criteria for granting waivers related to PE instructional minutes for the purpose of implementing a block schedule. Please see the PE Requirements for Block Schedules on the CDE Waiver Policies web page at <https://www.cde.ca.gov/re/lr/wr/waiverpolicies.asp>.

Schools began implementing block schedules, sometimes with disregard for the statutory requirements for PE instructional minutes, in the 1980s. Several types of these block schedules incorporate PE instruction on a limited basis and do not meet the statutory requirement of 400 minutes each 10 school days. A committee including PE experts, district staff, SBE members, and CDE staff developed a recommendation for a waiver policy. This group did not feel that they could ask high schools in the state to stop doing block scheduling, so flexibility was sought, and a waiver policy was created.

## Fiscal Analysis

There is no statewide fiscal impact of waiver approval or denial.

## Attachment(s)

* **Attachment 1:** Summary Table of Physical Education Block Schedule State Board of Education Waiver (1 page)
* **Attachment 2:** Los Angeles Unified School District General Waiver Request 7-2-2022 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table of Physical Education Block Schedule State Board of Education Waiver

California *Education Code* Section 51222(a)

| **Waiver Number** | **District** | **Period of Request** | **Bargaining Unit, Representatives Consulted, Date, and Position** | **Public Hearing and Board Approval Date** | **Public Hearing Advertisement** | **SSC/Advisory Committee Consulted, Date, and Position** |
| --- | --- | --- | --- | --- | --- | --- |
| 7-2-2022 | **Los Angeles Unified School District** | **Requested:**  August 8, 2022, to August 7, 2024  **Recommended:**  August 8, 2022, to August 6, 2024 | **Associated Administrators Los Angeles Representative:**  Nery Paiz  Title: President February 4, 2022  **Support**  **United Teachers Los Angeles**  **Representative:**  Arlene Inouye  Title: Secretary  February 4, 2022  **Support** | Public Hearing:  February 8, 2022  Advertised on District website  Local Board Approval:  February 8, 2022 | Published in accordance with Board Meeting Agenda requirements | Community Council Reviewed By: School Site Council  Review Date: May 13, 2021  Objection: N |

Created by California Department of Education

May 2022

# Attachment 2: Los Angeles Unified School District General Waiver Request 7-2-2022

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1964733

Waiver Number: 7-2-2022

Active Year: 2022

Date In: 2/10/2022 11:10:21 AM

Local Education Agency: Los Angeles Unified

Address: 333 South Beaudry Ave.

Los Angeles, CA 90017

Start: 8/8/2022

End: 8/7/2024

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Physical Education Program

Ed Code Title: Block Schedules

Ed Code Section: 51222(a)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: LAUSD is requesting a waiver from *Education Code* section 51222 (a) and (b) [which requires pupils to attend 400 minutes of physical education for a total period of time of not less than 400 minutes each 10 schooldays].

Outcome Rationale: *EC* Section 51222(a) established requirements for minimum instructional minutes of PE, 400 minutes each ten school days for pupils in grades seven through twelve. Nine schools have implemented a block schedule in grades nine through twelve that do not provide each student with PE instruction for a minimum of 400 minutes each ten school days.

The District allowed schools to transition to an alternative master schedule in order to mitigate learning loss due to COVID-19 school closures, 4x4 schedules were offered as opportunities to implement acceleration, enrichment, additional electives, and other opportunities to take courses that will not fit into a traditional 6-period day. Although graduation requirements remain unchanged, the 4x4 also provides additional opportunities for grade enhancement to improve a D to a C or better grade.

Arleta HS

Chavez ASE

Gardena HS

Narbonne HS

Roosevelt HS

Math Science and Technology Magnet Academy at Roosevelt HS

Roybal Learning Center

Verdugo Hills LS, and

Polytechnic HS

Student Population: 574000

City Type: Urban

Public Hearing Date: 2/8/2022

Public Hearing Advertised: District Website

Local Board Approval Date: 2/8/2022

Community Council Reviewed By: School Site Councils

Community Council Reviewed Date: 5/13/2021

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Ms. Adriana Valenzuela

Position: Coordinator

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Bargaining Unit Date: 02/04/2022

Name: AALA

Representative: Nery Paiz

Title: President

Phone: 213-484-2226

Position: Support

Comments:

Bargaining Unit Date: 02/04/2022

Name: UTLA

Representative: Arlene Inouye

Title: Secretary

Phone: 213-479-7379

Position: Support

Comments: