

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of EducationNovember 2022 AgendaItem #W-01

## Subject

Request by **Los Angeles Unified School District** to waive California *Education Code* Section 45134(c), in which no person shall be employed in a school employment while he or she is receiving a retirement allowance under any retirement system by reason of prior school employment, to allow a retired individual, Sharon Robinson, to continue to be employed as a staff assistant to a board member.

## Waiver Number

* 9-6-2022

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Los Angeles Unified School District (USD) is requesting a waiver of California *Education Code* (*EC*) Section 45134(c), to allow Sharon Robinson, a State Teachers’ Retirement System (STRS) retiree, to be employed as a staff assistant to a Board Member.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

The California Department of Education recommends the State Board of Education (SBE) approve the request by the Los Angeles USD to waive *EC* Section 45134(c) for the period from July 2, 2022, through June 29, 2024.

## Summary of Key Issues

An employee may continue to receive a retirement allowance while collecting a salary for work in classified service if *EC* Section 45134(c) is waived. The Los Angeles USD is requesting a waiver to allow a retired individual, Sharon Robinson, to continue to be employed as a staff assistant to a member of the Los Angeles USD Board of Education. The Los Angeles USD Board of Education employs staff assistants and field representatives to assist individual board members in carrying out their duties. One member of the Los Angeles USD Board of Education has selected as an assistant, Ms. Robinson, who is receiving retirement allowances from the STRS. The Los Angeles USD incurs a savings in hiring the retiree over a non-retiree due to not having to pay employee health benefits as the retiree is already receiving health benefits. The district is requesting the waiver through the 2023–24 fiscal year.

**Demographic Information:** The Los Angeles USD has a student population of 548,338, and is located in an urban area of Los Angeles County.

**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

The SBE approved similar requests from the Los Angeles USD for this individual in March 2015 for the period from August 26, 2014, through June 30, 2016, in September 2019 for the period from July 2, 2016 through June 30, 2018 (retroactively), and the period July 2, 2018 through June 30, 2020, and in November 2020 for the period for August 1, 2020 through June 30, 2022. In addition, the SBE has approved previous requests from the Sanger USD to employ a STRS retiree as a classified bus driver.

## Fiscal Analysis (as appropriate)

There is no statewide fiscal impact of this waiver approval.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Los Angeles USD General Waiver Request 9-6-2022 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

| California *Education Code* Section 45134(c)**Waiver Number** | **District** | **Period of Request** | **Bargaining Unit Representatives Consulted, Date and Position** | **Public Hearing and Board Date** | **Advisory Committee Position** |
| --- | --- | --- | --- | --- | --- |
| 9-6-2022 | Los Angeles Unified School District | **Requested:**July 1, 2022, to June 30, 2024**Recommended:**July 2, 2022, to June 29, 2024 | Associated Administrators of Los AngelesNery Paiz, PresidentJune 10, 2022**Support**United Teachers of Los AngelesJeff Good, Executive DirectorJune 13, 2022**Support** | Approved:June 21, 2022 | Highlands Council of PTAsJune 14, 2022**No objections** |

Created by California Department of Education
November 2022

# Attachment 2: California Department of Education WAIVER SUBMISSION - General

CD Code: 1964733

Waiver Number: 9-6-2022

Active Year: 2022

Date In: 6/23/2022 3:00:46 PM

Local Education Agency: Los Angeles Unified

Address: 333 South Beaudry Ave.

Los Angeles, CA 90017

Start: 7/1/2022

End: 6/30/2024

Waiver Renewal: Y

Previous Waiver Number: 1-9-2020

Previous SBE Approval Date: 11/5/2020

Waiver Topic: Other Waivers

Ed Code Title: Employment - Retirement System

Ed Code Section: 45134(c)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: 45134(c): [No person shall be employed in a school employment while he or she is receiving a retirement allowance under any retirement system by reason or prior school employment]...

Outcome Rationale: The Los Angeles Unified School District is requesting a waiver to allow a retired individual, Sharon Robinson, to continue to be employed as a staff assistant to a board member. The Board of Education employs staff assistants and field representatives to assist individual Board Members in carrying out their duties. Those assistants are selected by the respective Board Members. One member of the LAUSD Board of Education has selected as an assistant a person who is receiving retirement allowances from the State Teachers' Retirement System. The District incurs a savings in hiring the retiree over a non-retiree due to not having to pay employee health benefits as the retiree is already receiving health benefits. We are applying for a renewal due to prior approval of a similar waiver. Nonetheless, such a waiver may be unnecessary since Education Section 45112 states the following: "If the governing board of any school district employs staff assistants or field representatives to directly assist the governing board or individual governing board member in carrying out their policymaking duties, such assistants or representatives shall be members of the classified services, except that such assistants or representatives shall be exempt from all provisions of this code relating to obtaining a permanent status in any position in the district, and procedures pertaining to the recruitment, appointment, classification, and salary of members of the classified service." LAUSD is requesting a waiver renewal of *EC* section 45134(c) out of due diligence.

Student Population: 575000

City Type: Urban

Public Hearing Date: 6/21/2022

Public Hearing Advertised: District Website

Local Board Approval Date: 6/21/2022

Community Council Reviewed By: Highlands Council of PTAs

Community Council Reviewed Date: 6/14/2022

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Ms. Colleen Pagter

Position: Coordinator of Legislative Advocacy

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Bargaining Unit Date: 06/10/2022

Name: Associated Administrators of Los Angeles

Representative: Nery Paiz

Title: President

Phone: 213-484-2226

Position: Support

Comments:

Bargaining Unit Date: 06/13/2022

Name: United Teachers of Los Angeles

Representative: Jeff Good

Title: Executive Director

Phone: 213-487-5560

Position: Support

Comments: