

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education November 2023 Agenda Item #W-02

## Subject

Request by **Jefferson Union High 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 Jefferson High School.

## Waiver Number

3-4-2023

## Type of Action

Action, Consent

## Summary of the Issue(s)

Jefferson High School is requesting to implement a 4X4 block schedule where students receive 800 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. Jefferson High School students only take PE for one semester; therefore, Jefferson Union High School District (JUHSD) is seeking a waiver of *EC* Section 51222(a).

## 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 7, 2024 (two years less two days), consistent with State Board of Education (SBE) Waiver Policy 99-03. 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. Jefferson High School 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.

Students at Jefferson High School are enrolled in PE for only 18 weeks of the school year, receiving instruction for 80 minutes per school day for 10 days. This means that PE is taught for 400 minutes per school week (or 800 minutes each 10 days). Therefore, the actual time that JUHSD high school students are enrolled in PE meets the minimum minute requirements, if added on an annual basis (7,200 minutes).

| **Sample Student Schedules** | **Fall Term**  18 Consecutive Weeks | **Spring Term**  18 Consecutive Weeks |
| --- | --- | --- |
| Student A | Minutes per week of PE Instruction = 0 | Minutes per week of PE Instruction = 400 |
| Student B | Minutes per week of PE Instruction = 400 | Minutes per week of PE Instruction = 0 |

The California Department of Education (CDE) has worked closely with JUHSD 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 Jefferson High School complies 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 enrolled in courses of PE a minimum of 18 weeks in 80-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 include 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, Jefferson High School in JUHSD, shall have PE reviewed as a part of the district’s FPM process.

The SBE Waiver Policy 99-03 requires that the California Physical Fitness Test (PFT) data will be reviewed for school(s) who request a waiver, initially and on request for renewal of the waiver to determine improvement or at minimum, maintenance of students’ levels of health-related fitness. The CDE is currently following emergency regulations that require local educational agencies (LEAs) to administer the PFT to eligible students only using five testing components and the LEAs are only required to report the PFT student participation results which exclude Healthy Fitness Zone fitness scores at this time.

**Demographic Information:** JUHSD is located in a suburban area of San Mateo County. Jefferson High School has a student enrollment of 1,125.

**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 (as appropriate)

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:** Jefferson Union High School District General Waiver Request 3-4-2023 (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** |
| --- | --- | --- | --- | --- | --- | --- |
| 3-4-2023 | **Jefferson Union High School District** | **Requested:**  8/9/2022 to  6/30/2024  **Recommended:**  8/9/2022 to  8/7/2024 | Bargaining Unit Date: 02/16/2023  **American Federation Teacher Local 1481**  **Representatives:** Zachary Powell, Title: AFT Site Labor Management Representative  Position: **Support** | Public Hearing:  2/7/2023  Local Board Approval:  2/7/2023 | District Website | Community Council Reviewed By: School Site Councils  Review Date: 1/27/2023  Objection: No |

Created by California Department of Education  
November 2023

# Attachment 2: Jefferson Union High School District General Waiver Request 3-4-2023

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 4168924

Waiver Number: 3-4-2023

Active Year: 2023

Date In: 4/4/2023 10:48:20 AM

Local Education Agency: Jefferson Union High

Address: 699 Serramonte Blvd., Ste.100

Daly City, CA 94015

Start: 8/9/2022

End: 6/30/2024

Waiver Renewal: No

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: 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 4x4 block schedule at Jefferson High School

Outcome Rationale: Jefferson High School uses the 4x4 block schedule. Jefferson High School and teacher’s union have determined that the daily 4 x 4 block schedule is preferable for the following reasons:

1. The number of classes that the students can take is increased from 6 to 8 each school year. This expands opportunities for all students to experience (electives)

Jefferson High School had 56 responses (91.1% Certificated, 8.9% Classified)  
89.3% were in favor of students taking 8 classes over the course of a year, while 10.7% were opposed. Of the 56 responses 82.1% were in favor of moving to a 4x4 schedule. and enables students to receive both course remediation and acceleration.

2. There are fewer student contacts for each teacher during the term, which allows for more personal interaction between teachers and students, and therefore improved student engagement, behavior and achievement.

3. Teachers and students have expanded time for instruction, skill practice and application of knowledge due to the 81-minute period.

4. Students’ ability to focus on 4 classes per term instead of 6 or 8. Students and teachers are allowed more time to engage in more in-depth instruction and learning.

5. Fewer textbooks are required, saving the district funds that can be used for expanded and updated resources including technology.

6. Enhanced planning time for lesson preparation, grading, and assessment/curriculum development for teachers lead to increased teacher performance.

7. Teachers can focus on relationship building having fewer students per semester.

8. AP courses that are more rigorous can be spread out into different semesters which create a lower stress learning environment for students.

Using existing programs only, 4x4 schools can offer every student a year of postsecondary study in addition to a full high school program. Postsecondary study is readily available through Advanced Placement, dual enrollment, career technical education, apprenticeships, employers, and online schooling (Edwards 1995b).

Each year the faculty and administration at Jefferson High School are asked to discuss and review alternative schedules to determine if there were other options that would lead to improved student achievement. The

Jefferson High School continues to believe that the daily 4x4 block schedule is the best schedule for supporting the success of its students. The A/B alternating block option has been discussed thoroughly in the past but has not been adopted because it does not allow students to “double up” on sequential courses in a single school year (Ex: Math1, Math2, Spanish1, Spanish2). The A/B alternating block would inhibit our

students from getting to higher levels of courses, while the 4 x 4 schedule allows students to catch up if they fail a class, or to double up and take 2 sequential courses in a single school year. This topic has been discussed at site department meetings, site leadership meetings, and at district principals’ meetings.

Student Population: 1125

City Type: Suburban

Public Hearing Date: 2/7/2023

Public Hearing Advertised: Posterd on bulletings at the all the sites in the District, City Hall, Public Library, and the website

Local Board Approval Date: 2/7/2023

Community Council Reviewed By: School Site Council

Community Council Reviewed Date: 1/27/2023

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Kareen Baca

Position: Deputy Superintendent, Educational Services

E-mail: [kbaca@jeffersonunion.net](mailto:kbaca@jeffersonunion.net)

Telephone: 650-550-7947

Bargaining Unit Date: 01/30/2023  
Name: American Federation of Teachers Local 1481  
Representative: Zachary Powell  
Title: AFT Site Labor Management Representative  
Phone: 650-550-7700  
Position: Support