

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education May 2024 Agenda Item #W-02

## Subject

Request by **Oxnard 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 to implement a block schedule at Channel Islands and Oxnard High School.

## Waiver Number

1-7-2023

## Type of Action

Action, Consent

## Summary of the Issue(s)

Channel Islands High School (CIHS) and Oxnard High School (OHS) are 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. CIHS and OHS students only take PE for one semester; therefore, Oxnard Union High School District (OUHSD)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 15, 2026 (two years less one day), 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. CIHS and OHS 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 CIHS and OHS 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 CIHS and OHS 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 = 400 | Minutes per week of PE Instruction = 0 |
| Student B | Minutes per week of PE Instruction = 0 | Minutes per week of PE Instruction = 400 |

The California Department of Education (CDE) has worked closely with OUHSD 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 programs at CIHS and OHS comply with 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 for an average of 80 minutes 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 the *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 OUHSD is identified for a Federal Program Monitoring (FPM) review by the CDE, at least one of the high schools listed in this waiver request will 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:** OUHSDhas a student population of 17,770 and is located in an urban area in Ventura 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 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 Oxnard Union High District Physical Education Block Schedule State Board of Education Waiver (1 page)
* **Attachment 2:** Oxnard Union High School District General Waiver Request 1-7-2023 (2 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 (EC)* 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** |
| --- | --- | --- | --- | --- | --- | --- |
| 1-7-2023 | **Oxnard Union High School District** | **Requested:**  8/16/2023 to  8/16/2026  **Recommended:**  8/16/2024 to8/15/2026 | Bargaining Unit Date: 1/23/2023  **Oxnard Federation of Teachers**  **Representative:** Ed Ransom  **Title:** District and Site Union Rep  **Position:** Support | **Public Hearing:** 6/28/2023  **Local Board Approval:** 6/28/2023  **Objection**: No | Oxnard Union High website, Public Agenda, and ParentSquare | **Community Council**  **Reviewed By:** Channel Islands and Oxnard High Schools Site Councils  **Review Date:** 5/17/2023  **Objection:** No |

# Attachment 2: Oxnard Union High General Waiver Request 1-7-23

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 5672546

Waiver Number: 1-7-2023

Active Year: 2023

Date In: 7/7/2023 1:12:56 PM

Local Education Agency: Oxnard Union High

Address: 1800 Solar Dr.

Oxnard, CA 93030

Start: 8/16/2023

End: 8/16/2026

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: Oxnard Union High School District (OUHSD) is seeking a waiver of *EC* Section 51222(a) for Channel Islands and Oxnard High Schools.

Outcome Rationale: Both Channel Islands and Oxnard High Schools are requesting to implement a 4X4 block schedule where students receive 900 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. Students at both Channel Islands and Oxnard High Schools take PE for two of the four quarters; therefore, Oxnard Union High School District (OUHSD) is seeking a waiver of *EC* Section 51222(a).

Student Population: 17770

City Type: Urban

Public Hearing Date: 6/28/2023

Public Hearing Advertised: Oxnard Union Website, district office bulletin board, and via ParentSquare.

Local Board Approval Date: 6/28/2023

Community Council Reviewed By: School Site Councils at both Channel Islands and Oxnard High Schools.

Community Council Reviewed Date: 5/17/2023

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Cameron Salehi

Position: Director, ISS

E-mail: [cameron.salehi@oxnardunion.org](mailto:cameron.salehi@oxnardunion.org)

Telephone: 805-278-1346

Bargaining Unit Date: 01/23/2023  
Name: Oxnard Federation of Teachers  
Representative: Ed Ransom  
Title: District and Site Union Rep  
Phone: 385-2787  
Position: Support