

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education March 2021 Agenda Item #W-02

## Subject

Request by **Los Angeles Unified School District** to waive California *Education Code* Section 45134(c), to allow the employment of a State Teachers’ Retirement System retiree in a classified position on a temporary basis.

## Waiver Number

* 4-11-2020

## 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 Jim Morris, a State Teachers’ Retirement System (STRS) retiree, to be employed in a classified position on a temporary basis to oversee the launch and implementation of the plan and protocols for COVID testing of all employees and students.

## 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 August 1, 2020, through June 30, 2021.

## 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, Jim Morris, to be employed in a classified position on a temporary basis to oversee the launch and implementation of the plan and protocols for COVID testing of all employees and students when schools are reopened for in-person instruction. This individual was chosen for the position due to the short-term nature of the work and also because he has broad operational knowledge of district operations based on his previous positions with the district, which included being a Local District Superintendent and Chief of Staff for several years. The Los Angeles USD also 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 2020–21 fiscal year.

**Demographic Information:** The Los Angeles USD has a student population of 453,276 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** <https://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 previous requests from the Los Angeles USD in March 2015, September 2019, and November 2020 to employ a STRS retiree as an assistant to a board member. 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 4-11-2020 (2 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** |
| --- | --- | --- | --- | --- | --- |
| 4-11-2020 | Los Angeles Unified School District | **Requested:** August 1, 2020, to June 30, 2021  **Recommended:** August 1, 2020, to June 30, 2021 | Associated Administrators of Los Angeles  Juan Flecha, President  November 1, 2020  **Support**  United Teachers of Los Angeles  Jeff Good, Executive Director  November 2, 2020  **Neutral** | Approved:  November 10, 2020 | Community Advisory Committee  November 18, 2020  **No objections** |

Created by California Department of Education  
December 2020

# Attachment 2: Los Angeles USD General Waiver Request 4‑11‑2020

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1964733

Waiver Number: 4-11-2020

Active Year: 2020

Date In: 11/19/2020 9:05:29 AM

Local Education Agency: Los Angeles Unified

Address: 333 South Beaudry Ave.

Los Angeles, CA 92649

Start: 8/1/2020

End: 6/30/2021

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

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: [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 of California *Education Code* (*EC*) Section 45134(c), to allow Jim Morris, a State Teachers’ Retirement System (STRS) retiree, to be employed in a classified position on a temporary basis to oversee the launch and implementation of the plan and protocols for COVID testing of all employees and students. In an effort to reopen schools when health officials allow in-person instruction,

Superintendent Beutner has been devising a plan to be able to conduct Covid testing for all employees and students. To implement and manage this monumental task, the Superintendent has selected a person who is currently receiving retirement allowances from STRS. 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. *Education Code* § 45134(c) states that “No person shall be employed in school employment while he or she is receiving a retirement allowance under any retirement system by reason of prior school employment, ...”. However, an employee may continue to receive a retirement allowance while collecting a salary for work in the classified service if *Education Code* § 45134(c) is waived. Therefore, LAUSD is requesting a waiver of *EC* section 45134(c) for a temporary basis.

Student Population: 453276

City Type: Rural

Public Hearing Date: 11/10/2020

Public Hearing Advertised: District Website

Local Board Approval Date: 11/10/2020

Community Council Reviewed By: Community Advisory Committee

Community Council Reviewed Date: 11/18/2020

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Ms. Colleen Pagter

Position: Legislative Liaison

E-mail: [colleen.pagter@lausd.net](mailto:colleen.pagter@lausd.net)

Telephone: 646-483-1132

Fax:

Bargaining Unit Date: 11/01/2020

Name: Associated Administrators of Los Angeles

Representative: Juan Flecha

Title: President

Phone: 213-484-2226

Position: Support

Bargaining Unit Date: 11/02/2020

Name: United Teachers of Los Angeles

Representative: Jeff Good

Title: Executive Director

Phone: 213-637-5149

Position: Neutral