

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education May 2024 Agenda Item #W-03

## Subject

Request by **Oceanside 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 Oceanside High School.

## Waiver Number

2-6-2023

## Type of Action

Action, Consent

## Summary of the Issue(s)

Oceanside 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. Oceanside High School students only take PE for one semester; therefore, Oceanside Unified School District (OUSD) 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. Oceanside 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 Oceanside 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 Oceanside 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 = 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 OUSD 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 Oceanside High School 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 OUSD is identified for a Federal Program Monitoring (FPM) review by the CDE, Oceanside High School 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:** Oceanside High School has a student population of 1,800 students and is located in an urban area in San Diego 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* Section 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 Oceanside Unified School District Physical Education Block Schedule State Board of Education Waiver (1 page)
* **Attachment 2:** Oceanside Unified School District General Waiver Request 2-6-2023 (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** |
| --- | --- | --- | --- | --- | --- | --- |
| 2-6-2023 | **Oceanside Unified School District** | **Requested:**  8/15/2023 to  6/16/2025  **Recommended:**  8/16/2024 to8/15/2026 | Bargaining Unit Date: 8/3/2023  **Oceanside Teacher Association**  **Representative:** Tiffany Ortega  **Title:** President  **Position:** Support | **Public Hearing:** 1/16/2024  **Local Board Approval:** 1/16/2024  **Objection:** No | Oceanside Unified School District website, Public Agenda, and ParentSquare | **Community Council**  **Reviewed By:** Oceanside High School Site Council  **Review Date:** 4/21/2022  **Objection:** No |

# Attachment 2: Oceanside Unified School District General Waiver Request 2-6-23

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 3773569

Waiver Number: 2-6-2023

Active Year: 2023

Date In: 6/14/2023 2:16:27 PM

Local Education Agency: Oceanside Unified

Address: 2111 Mission Ave.

Oceanside, CA 92058

Start: 8/15/2023

End: 6/16/2025

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: *EC* 51222.

(a) All pupils, except pupils excused or exempted pursuant to Section 51241, shall be required to attend upon the courses of physical education for a total period of time of not less than 400 minutes each 10 schooldays.

*EC* 60800

California *Education Code* (*EC*) Section 60800 has required that each district administer a state-designated physical fitness test (PFT) to all students in grades five, seven, and nine. Each year the PFT is administered between February and May.

Outcome Rationale: This bell schedule will allow each student to take between six and eight classes at one time, but goes to only three or four classes per day. The 4/4 schedule, in which students take four courses every day for an extended class period, but they do not alternate courses. Instead, they complete the curriculum in a semester. Focusing only on 3 to four classes at one time. This schedule change at Oceanside High School will also allow the students who wish to advance or who have the need to remediate the opportunity to do so within the school day.

Research has shown that the 4x4 block schedule has the potential to increase graduation rates and test scores. Research also indicates that the block schedule structure generally results in lower workloads for both students and teachers. Since students are enrolled in fewer courses during a given time period, the number of assignments that need to be completed is generally lower in the block schedule, often positively affecting students' mental health. The extended period of time also allows for positive relationship building within the classroom setting. Oceanside High School will also be adding an advisory/homeroom to the schedule that will focus on the Pirate Core Values, College and Career Readiness, Social Emotional Health and Wellbeing, and other valuable life lessons.

Student Population: 1800

City Type: Urban

Public Hearing Date: 01/16/2024

Public Hearing Advertised: Information was presented to all educational partners present during Back to School Night presentations. Social media, emails and informational weekly updates were also sent out throughout the year.

Local Board Approval Date: 01/16/2024

Community Council Reviewed By: Board meetings are advertised through social media, district email, and livestream KOCTV.

Community Council Reviewed Date: 6/12/2023

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Dr. Greg Smedley

Position: Director of Secondary Education

E-mail: [greg.smedley@oside.us](mailto:greg.smedley@oside.us)

Telephone: 760-966-7858 x7858

Bargaining Unit Date: 08/03/2023

Name: Oceanside Teacher Association

Representative: Tiffany Ortega

Title: OTA president

Phone: 760-901-7194

Position: Support