

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education May 2023 Agenda Item #W-11

## Subject

Request by the **Los Angeles Unified School District** to waive portions of California *Education Code* Section 45272(a), to allow the appointment of applicants from outside the top three ranks on the eligibility lists to classified positions.

## Waiver Number

8-12-2022

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Los Angeles Unified School District (LAUSD) is requesting a waiver of California *Education Code* (*EC*) Section 45272(a), to allow the district to fill classified, school-based positions with candidates on the eligibility lists who are outside the top three ranks. The process under *EC* 45272(a) requires that offers of employment be made to candidates from the top three ranks before offers of employment can be made to any other candidates on the list.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

The California Department of Education (CDE) recommends that California *EC* Section 45272(a) be waived for the LAUSD with the following conditions:

* Appointments pursuant to this waiver are limited to the following school-based, entry level positions: Food Service Worker, Building & Grounds Worker, Special Education Trainee/Assistant, Office Technician, and Library Aide.

* Appointees shall be on the eligibility lists and meet all other minimum qualifications for the position, including but not limited to, criminal background checks.
* The period of the waiver shall be from July 3, 2023 through June 30, 2025. If desired, LAUSD may submit a request for a renewal of the waiver with an analysis of the effectiveness of the flexibility.

## Summary of Key Issues

Approval of this waiver request would waive a portion of California *EC* Section 45272(a), which in turn would allow LAUSD to fill classified, school-based positions with candidates from outside the top three ranks on the eligibility lists.

The process required by *EC* Section 45272(a) requires that offers of employment be made to candidates in the top three ranks on any eligibility list before offers of employment can be made to any other candidates on the list. According to LAUSD, this process results in numerous vacancies waiting to be filled at school sites because the top three ranks of candidates on the eligibility list are often not available or have interviewed at other schools and accepted offers.

LAUSD has requested a waiver to allow schools to make appointments to any candidate on the eligibility list no matter the rank. This waiver would not allow LAUSD to make offers of employment to individuals who are not on the eligibility list.

The SBE approved a previous request from LAUSD in March 2022 (Item W-03) to allow the district to fill the following classified, school-based positions—Food Service Worker, Building & Grounds Worker, and Special Education Trainee/Assistant—with candidates on the eligibility lists who are outside the top three ranks. As part of their documentation regarding the waiver request, LAUSD provided the following data in the table below to indicate the effectiveness and impact the March 2022 waiver has had for those three job titles, showing a total increase of 456 hires in 2022 compared to the same period in 2021.

| Job Title | # of Employees Hired Mar-June 2021 | # of Employees Hired Mar-June 2022 | # Positions | Existing Vacancies (as of 11-07-22) |
| --- | --- | --- | --- | --- |
| Building & Grounds Worker | 178 | 323 | 2,88 | 517 |
| Food Services Worker | 3 | 244 | 2,563 | 235 |
| Special Education Asst./Trainee | 96 | 166 | 6,462 | 569 |
| Total: | 277 | 733 | 11,503 | 1,321 |

In addition to maintaining the three classifications currently covered by the waiver, LAUSD requests to add Office Technician and Library Aide to the request for the extension of the current waiver. The district estimated this addition would impact over 300 vacancies for the two job titles listed in the table below.

|  |  |  |
| --- | --- | --- |
| Job Title | # Positions | Vacancies |
| Library Aid | 520 | 138 |
| Office Technician | 1,183 | 175 |

LAUSD staff estimates granting principals access to the entire eligibility list may speed up the hiring process by three to four weeks for some schools, and reduce the risk of losing candidates who are outside of the first three ranks but otherwise eligible because of extended waiting periods.

**Demographic Information:** The Los Angeles USD has a student population of 565,479 and is located in an urban area of Los Angeles County.

**Because this is a general waiver, if the State Board of Education 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 a previous request from LAUSD in March 2022 (Item W-03, <https://www.cde.ca.gov/be/ag/ag/yr22/agenda202203.asp>) to allow the district to fill classified, school-based positions with candidates on the eligibility lists who are outside the top three ranks.

The SBE approved a previous request from the Manhattan Beach USD in March 2004 (Item W-09, <https://www.cde.ca.gov/be/ag/ag/documents/agenda0304.pdf>) to employ a substitute assistant who was not in the top three ranks.

At its March 2007 meeting the SBE denied a request from the San Bernardino City USD (Item W-13, <https://www.cde.ca.gov/be/ag/ag/documents/agenda0304.pdf>), to allow the district to appoint a specified person to perform the duties of the Personnel Director and Commission.

## Fiscal Analysis (as appropriate)

There is no statewide fiscal impact of waiver approval (or denial).

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Los Angeles Unified School District General Waiver Request 8-12-2022 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code (EC)* Section 45272(a)

| **Waiver Number** | **District** | **Period of Request** | **Bargaining Unit Representatives Consulted, Date and Position** | **Local Board Approval Date** | **Public Hearing Date** | **Advisory Committee Position** |
| --- | --- | --- | --- | --- | --- | --- |
| 8-12-2022 | Los Angeles Unified School District | **Requested:** July 1, 2023 to June 30, 2025  **Recommended:** July 3, 2023 to June 30, 2025 | California School Employees Association  Letetsia Fox, President  Chapter 500  November 29, 2022  **Neutral**  Service Employees International Union  Lester Garcia, Political Director  November 28, 2022  **Neutral** | December 13, 2022 | April 18, 2023  Public Hearing Advertised: District website, email | Parent Advisory Committee  December 1, 2022  **No objections** |

Created by California Department of Education  
April 2023

# Attachment 2: Los Angeles Unified School District General Waiver Request 8-12-2022

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1964733

Waiver Number: 8-12-2022

Active Year: 2022

Date In: 12/13/2022 2:57:48 PM

Local Education Agency: Los Angeles Unified

Address: 333 South Beaudry Ave.

Los Angeles, CA 90017

Start: 7/1/2023

End: 6/30/2025

Waiver Renewal: Yes

Previous Waiver Number: 9-12-2021

Previous SBE Approval Date: 3/10/2022

Waiver Topic: Other Waivers

Ed Code Title: Other Waivers

Ed Code Section: 45272(a)

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: *Education Code* 45272(a) reads:

(a) All vacancies in the classified service shall be filled pursuant to this article and the rules of the commission, from applicants on eligibility lists which, wherever practicable, as determined by the commission, shall be made up from promotional examinations, or appointments may be made by means of transfer, demotion, reinstatement, and reemployment in accordance with the rules of the commission. All applicants for promotional examinations shall have the required amount of service in classes designated by the commission or meet the minimum qualifications of education, training, experience, and length of service, which shall be determined by the commission to be appropriate for the class for which they have applied. Appointments shall be made from the eligibles having the first three ranks on the list who are ready and willing to accept the position.

Outcome Rationale: Los Angeles Unified requests for an extension of the existing one-year waiver that provides temporary flexibilities to the last sentence “Appointments shall be made from the eligibles having the first three ranks on the list who are ready and willing to accept the position.”

At the Los Angeles Unified Board's December 7, 2021 meeting, the Board approved the Office of Government Relations (OGR) staff to seek a two-year waiver to a portion of *Education Code* 45272 (a) to the State Board of Education (SBE).

OGR staff submitted for and obtained a waiver for the classifications of Building and Grounds Worker, Food Service Worker, and Special Education Trainee/Assistant. However, the SBE granted the waiver for one year, (since this was a new request), and recommended that the effectiveness of the waiver be studied. The conditions of the waiver also allowed for Los Angeles Unified to submit for an extension if the waiver helped to increase the hiring rate of the selected classifications.

The process entailed in *Education Code* 45272(a) requires that offers of employment be made to the top three candidates on any such eligibility list before any other candidates on the list can be made offers of employment. The process of doing so results in numerous vacancies waiting to be filled at various school sites if the top three ranks of candidates are not available or have interviewed at other schools and accepted offers. The chart attached provides the entry-level classifications that would be included and benefit from this waiver. If the State waiver is approved, school-based, entry-level vacancies such as the ones listed in the table attached may be filled simultaneously at various schools throughout the District. Personnel Commission staff estimates granting principals access to the entire eligibility list would speed up the hiring process by three to four weeks for some schools. This flexibility would further reduce staffing shortages in hard-to-fill entry-level positions and alleviate the risk of losing candidates at the middle or bottom of the list because of extended waiting periods on the eligibility list.

In addition to maintaining the three classifications currently covered by the waiver, we request to add the Office Technician and Library Aide to the request for the extension of the current waiver. Currently, as indicated by the chart attached, there continue to be significant vacancies for these classified positions which exceed the number of eligible candidates.

As required by the SBE waiver process, the Parent Advisory Committee and affected labor groups were consulted regarding this waiver request.

Student Population: 565479

City Type: Urban

Public Hearing Date: 04/18/2023

Public Hearing Advertised: District Website, email

Local Board Approval Date: 4/18/2023

Community Council Reviewed By: Parent Advisory Committee (PAC)

Community Council Reviewed Date: 12/1/2022

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Deborah Bautista Zavala

Position: Legislative Advocate

E-mail: [d.bautistazavala@lausd.net](mailto:d.bautistazavala@lausd.net)

Telephone: 916-443-4405

Bargaining Unit Date: 11/29/2022

Name: CSEA

Representative: Letetsia Fox

Title: President Chapter 500

Phone: 800-834-9959

Position: Neutral

Bargaining Unit Date: 11/28/2022Name: SEIU Local 99

Representative: Lester Garcia

Title: Political Director

Phone: 213-387-8393

Position: Neutral