

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of Education January 2018 Agenda Item #W-06

## Subject

Request by **Los Angeles 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 ten school days for students in grades nine through twelve in order to implement a block schedule at East Valley High School, John H. Francis Polytechnic High School, Reseda High School, and Verdugo Hills High School.

## Waiver Numbers

* East Valley High School 41-6-2017
* John H. Francis Polytechnic High School 42-6-2017
* Reseda High School 43-6-2017
* Verdugo Hills High School 44-6-2017

## Type of Action

Action, Consent

## Summary of the Issue(s)

East Valley High School (HS), John H. Francis Polytechnic HS, Reseda HS, and Verdugo Hills HS are on 4X4 block schedules where students receive from 804 to 854 minutes of Physical Education (PE) instruction each ten school days for 18 weeks. California *Education Code* (*EC*) Section 51222(a) requires a minimum of 400 minutes each ten school days for the entire school year. Because students at the four Los Angeles Unified School District (LAUSD) High Schools only take PE for one semester, they are seeking a waiver of *EC* Section 51222(a).

## Authority for Waiver

*Education Code (EC)* Section 33050

## Recommendation

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

That *Education Code* (*EC*) Sections 33051(c) will NOT apply and the district must renew this waiver before January 13, 2020 (two years less one day), consistent with the conditions in SBE Policy 99-03. In addition, the District must create a uniform way for each 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) established requirements for minimum instructional minutes of PE, 400 minutes each ten school days for pupils in grades seven through twelve. East Valley HS, John H. Francis Polytechnic HS, Reseda HS, and Verdugo Hills HS have implemented a block schedule in grades nine through twelve that do not provide each student with PE instruction for a minimum of 400 minutes each ten school days.

Students at these schools are enrolled in PE for only 18 weeks of the school year, receiving instruction for an average of 84 minutes per school day (four days at an average of 88 minutes and one day at an average of 68 minutes). This means that PE is taught for over 400 minutes per school week (or 800 minutes each ten days). Therefore, the actual time that LAUSD HS students are enrolled in PE meets the minimum minute requirements, if added on an annual basis (7,200 minutes).

## Sample Student Schedules

In the Fall Term, student A will have PE for 18 consecutive weeks and zero minutes of instruction. In the spring, student A will have 18 consecutive weeks and 402 minutes of instruction.

In the Fall Term, student B will have PE for 18 consecutive weeks and 402 minutes of instruction. In the spring, student B will have 18 consecutive weeks and zero minutes of instruction.

The California Department of Education (CDE) has worked closely with Los Angeles Unified School District 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 all four high schools 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 50–90 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 includes: student accountability for participation in physical activity; guidance for students in using the principles of exercise to design and complete their physical activity program; 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, the four high schools in LAUSD shall have PE reviewed as a part of the district’s FPM process.

As required by State Board of Education (SBE) Waiver Policy #99–03, Physical Education Requirements for Block Schedules, the 2015–16 California Physical Fitness Test (PFT) data from the high schools that were reviewed for the Block Schedule Waiver indicated that on an average 29 percent of the grade nine students met all six out of six fitness standards on each of the PFT items. The averaged results from 2014–15 was 31 percent and 2013–14 was 29 percent of the grade nine students who met all six out of six fitness standards on the PFT.

**Demographic Information:** LAUSD has a student population of 633,621 and is located in an urban area in 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** <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, Physical Education 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. This policy, #99–03, is available for viewing at <http://www.cde.ca.gov/re/lr/wr/documents/pepolicy.doc>.

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 ten 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 (2 pages)
* **Attachment 2:** Los Angeles Unified School District General Waiver Request for the following: 41-6-2017 (2 pages)
* **Attachment 3:** Los Angeles Unified School District General Waiver Request for the following: 42-6-2017 (2 pages)
* **Attachment 4:** Los Angeles Unified School District General Waiver Request for the following: 43-6-2017 (2 pages)
* **Attachment 5:** Los Angeles Unified School District General Waiver Request for the following: 44-6-2017 (2 pages)

(Original waiver request are signed and on file in the Waiver Office.)

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# Attachment 1: Summary Table of Physical Education Block Schedule

| **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** |
| --- | --- | --- | --- | --- | --- | --- |
| 41-6-2017 | Los Angeles Unified School District | **Requested:**  August 15, 2017 to August 12, 2019  **Recommended:**  January 15, 2018 to  January 13, 2020 | Associated Administrators Los Angeles Juan Flecha President  May 31, 2017  **Support**  United Teachers-Los Angeles Daniel Barnhart Union Secretary  June 19, 2017  **Neutral** | Public Hearing  June 13, 2017  Local Board Approval  June 13, 2017 | District and school website and by the Board of Education public notice process | Community Council Reviewed By: The School Site Council reviewed the waiver.  Reviewed Date: June 2, 2017  Community Council **Objection: N** |
| 42-6-2017 | Los Angeles Unified School District | **Requested:**  August 15, 2017 to August 12, 2019  **Recommended:**  January 15, 2018 to  January 13, 2020 | Associated Administrators Los Angeles Juan Flecha President  May 31, 2017  **Support**  United Teachers-Los Angeles Daniel Barnhart Union Secretary  June 19, 2017  **Neutral** | Public Hearing  June 13, 2017  Local Board Approval  June 13, 2017 | District and school website and by the Board of Education public notice process | Community Council Reviewed By: The School Site Council reviewed the waiver.  Reviewed Date: June 20, 2017  Community Council **Objection: N** |
| 43-6-2017 | Los Angeles Unified School District | **Requested:**  August 15, 2017 to August 12, 2019  **Recommended:**  January 15, 2018 to  January 13, 2020 | Associated Administrators Los Angeles Juan Flecha President  May 31, 2017  **Support**  United Teachers-Los Angeles Daniel Barnhart Union Secretary  June 19, 2017  **Neutral** | Public Hearing  June 13, 2017  Local Board Approval  June 13, 2017 | District and school website and by the Board of Education public notice process | Community Council Reviewed By: The School Site Council reviewed the waiver.  Reviewed Date: June 1, 2017  Community Council **Objection: N** |
| 44-6-2017 | Los Angeles Unified School District | **Requested:**  August 15, 2017 to August 12, 2019  **Recommended:**  January 15, 2018 to  January 13, 2020 | Associated Administrators Los Angeles Juan Flecha President  May 31, 2017  **Support**  United Teachers-Los Angeles Daniel Barnhart Union Secretary  June 19, 2017  **Neutral** | Public Hearing  June 13, 2017  Local Board Approval  June 13, 2017 | District and school website and by the Board of Education public notice process | Community Council Reviewed By: The School Site Council reviewed the waiver.  Reviewed Date: June 6, 2017  Community Council **Objection: N** |

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# Attachment 2: Los Angeles Unified School District General Waiver Request

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1964733

Waiver Number: 41-6-2017

Active Year: 2017

Date In: 6/22/2017 12:45:10 PM

Local Education Agency: Los Angeles Unified School District

Address: 333 South Beaudry Ave.

Los Angeles, CA 90017

Start: 8/15/2017

End: 7/15/2018

Waiver Renewal: No

Previous Waiver Number: NA

Previous SBE Approval Date: NA

Waiver Topic: Physical Education Program

Ed Code Title: Block Schedules

Ed Code Section: 51222(a)

Ed Code Authority: 33050

Ed Code or *CCR* to Waive: LAUSD is requesting a waiver from the State Board of Education of

California *Education Code* section 51222 (a) and (b) [which requires

pupils to attend 400 minutes of physical education for a total period of

time of not less than 400 minutes each 10 schooldays].

Outcome Rationale: It has come to the attention of the District that some high schools were not following District policies and California *Education Code* regarding the required 400 minutes of PE every 10 days of school and that the schools had not followed policies that require a state waiver.

The District is submitting this waiver request in order to be compliant with state education code and District policy.

Student Population: 586

City Type: Urban

Public Hearing Date: 6/13/2017

Public Hearing Advertised: Via District and school website and by the Board of Education public notice process

Local Board Approval Date: 6/13/2017

Community Council Reviewed By: The School Site Council reviewed the waiver.

Community Council Reviewed Date: 6/2/2017

Community Council Objection: N

Community Council Objection Explanation: NA

Audit Penalty YN: N

Categorical Program Monitoring: N

Submitted by: Dr. Gary Garcia

Position: Administrator, High School Instruction

E-mail: [gary.p.garcia@lausd.net](mailto:gary.p.garcia@lausd.net)

Telephone: 213-241-5301

Fax: NA

Bargaining Unit Date: 06/19/2017

Name: United Teachers-Los Angeles

Representative: Daniel Barnhart

Title: union secretary

Position: Neutral

Comments: NA

# Attachment 3: Los Angeles Unified School District General Waiver Request

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1964733

Waiver Number: 42-6-2017

Active Year: 2017

Date In: 6/22/2017 2:41:22 PM

Local Education Agency: Los Angeles Unified School District

Address: 333 South Beaudry Ave.

Los Angeles, CA 90017

Start: 8/15/2017

End: 7/15/2019

Waiver Renewal: No

Previous Waiver Number: NA

Previous SBE Approval Date:

Waiver Topic: Physical Education Program

Ed Code Title: Block Schedules

Ed Code Section: 51222(a)

Ed Code Authority: 33050

Ed Code or *CCR* to Waive: LAUSD is requesting a waiver from the State Board of Education of California *Education Code* section 51222 (a) and (b) [which requires

pupils to attend 400 minutes of physical education for a total period of

time of not less than 400 minutes each 10 schooldays.]

Outcome Rationale: During the FPM process this year, it was brought to the attention of the District that Poly High Schools did not follow District policies and California *Education Code* regarding the required 400 minutes of PE every 10 days of school and that the school had not followed policies that require a state waiver.

The District is submitting this waiver request in order to be compliant with state education code and District policy.

Student Population: 2806

City Type: Urban

Public Hearing Date: 6/13/2017

Public Hearing Advertised: Via District and school website and by the Board of Education public notice process

Local Board Approval Date: 6/13/2017

Community Council Reviewed By: The School Site Council reviewed the waiver.

Community Council Reviewed Date: 6/20/2017

Community Council Objection: No

Community Council Objection Explanation: NA

Audit Penalty YN: N

Categorical Program Monitoring: Yes

Submitted by: Dr. Gary Garcia

Position: Administrator, High School Instruction

E-mail: [gary.p.garcia@lausd.net](mailto:gary.p.garcia@lausd.net)

Telephone: 213-241-5301

Fax: NA

Bargaining Unit Date: 06/19/2017

Name: United Teachers-Los Angeles

Representative: Daniel Barnhart

Title: union secretary

Position: Neutral

Comments: NA

# Attachment 4: Los Angeles Unified School District General Waiver Request

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1964733

Waiver Number: 43-6-2017

Active Year: 2017

Date In: 6/22/2017 2:50:42 PM

Local Education Agency: Los Angeles Unified School District

Address: 333 South Beaudry Ave.

Los Angeles, CA 90017

Start: 8/15/2017

End: 7/15/2019

Waiver Renewal: No

Previous Waiver Number: NA

Previous SBE Approval Date: NA

Waiver Topic: Physical Education Program

Ed Code Title: Block Schedules

Ed Code Section: 51222(a)

Ed Code Authority: 33050

Ed Code or *CCR* to Waive: LAUSD is requesting a waiver from the State Board of Education of California *Education Code* section 51222 (a) and (b) [which requires pupils to attend 400 minutes of physical education for a total period of time of not less than 400 minutes each 10 schooldays.]

Outcome Rationale: It has come to the attention of the District that some high schools were not following District policies and California *Education Code* regarding the required 400 minutes of PE every 10 days of school and that the schools had not followed policies that require a state waiver.

The District is submitting this waiver request in order to be compliant with state education code and District policy.

Student Population: 1566

City Type: Urban

Public Hearing Date: 6/13/2017

Public Hearing Advertised: via District and school website and by the Board of Education public notice process

Local Board Approval Date: 6/13/2017

Community Council Reviewed By: The School Site Council reviewed the waiver.

Community Council Reviewed Date: 6/1/2017

Community Council Objection: No

Community Council Objection Explanation: NA

Audit Penalty YN: No

Categorical Program Monitoring: No

Submitted by: Dr. Gary Garcia

Position: Administrator, High School Instruction

E-mail: [gary.p.garcia@lausd.net](mailto:gary.p.garcia@lausd.net)

Telephone: 213-241-5301

Fax: NA

Bargaining Unit Date: 06/19/2017

Name: Associated Administrators Los Angeles

Representative: Juan Flecha

Title: President

Position: Support

Comments: NA

Bargaining Unit Date: 05/31/2017

Name: United Teachers-Los Angeles

Representative: Daniel Barnhart

Title: union secretary

Position: Neutral

Comments: NA

# Attachment 5: Los Angeles Unified School District General Waiver Request

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1964733

Waiver Number: 44-6-2017

Active Year: 2017

Date In: 6/22/2017 3:12:34 PM

Local Education Agency: Los Angeles Unified School District

Address: 333 South Beaudry Ave.

Los Angeles, CA 90017

Start: 8/15/2017

End: 7/15/2019

Waiver Renewal: No

Previous Waiver Number: NA

Previous SBE Approval Date: NA

Waiver Topic: Physical Education Program

Ed Code Title: Block Schedules

Ed Code Section: 51222(a)

Ed Code Authority: 33050

Ed Code or *CCR* to Waive: LAUSD is requesting a waiver from the State Board of Education of California *Education Code* section 51222 (a) and (b) [which requires pupils to attend 400 minutes of physical education for a total period of time of not less than 400 minutes each 10 schooldays].

Outcome Rationale: It has come to the attention of the District that some high schools were not following District policies and California *Education Code* regarding the required 400 minutes of PE every 10 days of school and that the schools had not followed policies that require a state waiver.

The District is submitting this waiver request in order to be compliant with state education code and District policy.

Student Population: 1357

City Type: Urban

Public Hearing Date: 6/13/2017

Public Hearing Advertised: Via District and school websites and by the Board of Education public notice process

Local Board Approval Date: 6/13/2017

Community Council Reviewed By: The School Site Council reviewed the waiver.

Community Council Reviewed Date: 6/6/2017

Community Council Objection: No

Community Council Objection Explanation: NA

Audit Penalty YN: No

Categorical Program Monitoring: No

Submitted by: Dr. Gary Garcia

Position: Administrator, High School Instruction

E-mail: [gary.p.garcia@lausd.net](mailto:gary.p.garcia@lausd.net)

Bargaining Unit Date: 06/19/2017

Name: United Teachers-Los Angeles

Representative: Daniel Barnhart

Title: union secretary

Position: Neutral

Comments: NA

Telephone: 213-241-5301

Fax: NA