

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education March 2019 Agenda Item #W-03

## Subject

Request by **Vista 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 Mission Vista High School.

## Waiver Number

4-7-2018

## Type of Action

Action, Consent

## Summary of the Issue(s)

Mission Vista High School is requesting to implement a 4x4 block schedule where students receive 860 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. Mission Vista High School students only take PE for one semester; therefore, Vista Unified School District (VUSD) 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

June 28, 2020 (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. Mission Vista 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 Mission Vista High School are enrolled in PE for only 18 weeks of the school year, receiving instruction for an average of 86 minutes per school day (four days at an average of 89 minutes and one day at an average of 74 minutes). This means that PE is taught for over 400 minutes per school week (or 800 minutes each 10 days). Therefore, the actual time that VUSD 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 = 0 | Minutes per week of PE Instruction = 430 |
| Student B | Minutes per week of PE Instruction = 430 | Minutes per week of PE Instruction = 0 |

The California Department of Education (CDE) has worked closely with VUSD 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 Mission Vista High School 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 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 *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, Mission Vista High School, in the VUSD, shall have PE reviewed as a part of the district’s FPM process.

As required by SBE Waiver Policy 99-03, Physical Education Requirements for Block Schedules, the 2017–18 California Physical Fitness Test (PFT) data from Mission Vista High School was reviewed and indicates that 47.5 percent of the grade nine students met all six out of six fitness standards on each of the PFT items. This indicates a 2.7 percent increase from their 2016–17 (44.8 percent).

**Demographic Information:** Mission Vista High School has a student population of 1,677 and is located in a suburban 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* 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, 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. Please see the Physical Education 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 Physical Education Block Schedule State Board of Education Waiver (1 page)
* **Attachment 2:** Vista Unified School District General Waiver Request for the Waiver 4-7-2018(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* 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** |
| --- | --- | --- | --- | --- | --- | --- |
| 4-7-2018 | Vista Unified School District | **Requested:**  July 1, 2018 to June 30, 2020  **Recommended:**  July 1, 2018 to June 28, 2020 | Vista Teacher Association  Tod Critchlow  Union President  June 15, 2018  **Neutral** | Public Hearing:  July 26, 2018  Local Board Approval:  July 26, 2018 | Community newspaper and displayed in four locations | Community Council Reviewed By: The Mission Vista High School Site Council  Review Date: May 24, 2018  Objection: N |

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# Attachment 2: Vista Unified School District General Waiver Request

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 3768452

Waiver Number: 4-7-2018

Active Year: 2018

Date In: 7/27/2018 1:53:33 PM

Local Education Agency: Vista Unified School District

Address: 1234 Arcadia Ave.

Vista, CA 92084

Start: 7/1/2018

End: 6/30/2020

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: [51222(a)] states: "All pupils, except pupils excused or exempted pursuant to 51241, shall be required to attend upon the course of physical education for a total period of time of not less than 400 minutes each 10 school days."

Outcome Rationale: Since MVHS has a 4 x 4 block schedule, students receive 860 minutes of PE instruction each 10 school days for approximately 18 Weeks.

Student Population: 1677

City Type: Suburban

Public Hearing Date: 7/26/2018

Public Hearing Advertised: In the local paper and in 4 different public places

Local Board Approval Date: 7/26/2018

Community Council Reviewed By: Reviewed by Mission Vista High School Site Council (SSC)

Community Council Reviewed Date: 5/24/2018

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Craig Wiblemo

Position: Executive Director, Student Support Services

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Fax: 760-941-9675

Bargaining Unit Date: 06/15/2018

Name: Vista Teacher Association

Representative: Tod Critchlow

Title: President

Position: Neutral