

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education September 2019 Agenda Item #W-15

## Subject

Requests 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 as a staff assistant to a Board Member.

## Waiver Number

* 19-5-2019
* 20-5-2019

## 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 Sharon Robinson, a State Teachers’ Retirement System (STRS) retiree, to be employed as a staff assistant to a Board Member.

## 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 July 2, 2016, through June 30, 2018 and for the period from July 2, 2018, through June 30, 2020.

## 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, Sharon Robinson, to continue to be employed as a staff assistant to a board member. The Board of Education employs staff assistants and field representatives to assist individual board members in carrying out their duties. One member of the Los Angeles USD Board of Education has selected as an assistant, Ms. Robinson, who is receiving retirement allowances from the STRS. The Los Angeles USD 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 previously received a waiver for this purpose in March 2015 for the period from August 26, 2014, through June 30, 2016. The district is requesting a retroactive waiver to cover the time period July 1, 2016 through June 30, 2018 and a second waiver for the period July 1, 2018 through June 30, 2020. The board member’s term ends in 2020 and Ms. Robinson’s employment beyond that time is uncertain.

**Demographic Information:** The Los Angeles USD has a student population of 602,000 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** <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 request for this individual at the March 2015 meeting. In addition, the SBE has approved previous requests for 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 19-5-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Los Angeles USD General Waiver Request 20-5-2019 (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** |
| --- | --- | --- | --- | --- | --- |
| 19-5-2019  20-5-2019 | Los Angeles Unified School District  Los Angeles Unified School District | **Requested:** July 1, 2016, to June 30, 2018  **Recommended:** July 2, 2016, to June 30, 2018  **Requested:** July 1, 2018, to June 30, 2020  **Recommended:** July 2, 2018, to June 30, 2020 | Associated Administrators of Los Angeles  Juan Flecha, President  May 7, 2019  **Neutral**  United Teachers of Los Angeles  Alex Caputo-Pearl, President  **Neutral**  Associated Administrators of Los Angeles  Juan Flecha, President  May 7, 2019  **Neutral**  United Teachers of Los Angeles  Alex Caputo-Pearl, President  May 7, 2019  **Neutral** | Approved:  May 7, 2019  Approved:  May 7, 2019 | Community Council Review  May 7, 2019  **No objections**  Community Council Review  May 7, 2019  **No objections** |

Created by California Department of Education  
June 2019

# Attachment 2: Waiver #19-5-2019 Los Angeles Unified School District

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 1964733

Waiver Number: 19-5-2019

Active Year: 2019

Date In: 5/31/2019 12:51:20 PM

Local Education Agency: Los Angeles Unified School District

Address: 333 South Beaudry Ave.

Los Angeles, CA 90017

Start: 7/1/2016

End: 6/30/2018

Waiver Renewal: YES

Previous Waiver Number: 15-12-2014

Previous SBE Approval Date: 3/11/2015

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: 45134(c): [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 Board of Education employs staff assistants and field representatives to assist individual Board Members in carrying out their duties. Those assistants are selected by the respective Board Members. One member of the LAUSD Board of Education has selected as an assistant a person who is receiving retirement allowances from the State Teachers' Retirement System. We are applying for a renewal due to prior approval of a similar waiver. Nonetheless, such a waiver may be unnecessary since Education Section 45112 states the following: "If the governing board of any school district employs staff assistants or field representatives to directly assist the governing board or individual governing board member in carrying out their policymaking duties, such assistants or representatives shall be members of the classified services, except that such assistants or representatives shall be exempt from all provisions of this code relating to obtaining a permanent status in any position in the district, and procedures pertaining to the recruitment, appointment, classification, and salary of members of the classified service." LAUSD is requesting a waiver renewal of EC section 45134(c) out of due diligence.

Student Population: 602000

City Type: Urban

Public Hearing Date: 5/7/2019

Public Hearing Advertised: District Website

Local Board Approval Date: 5/7/2019

Community Council Reviewed By: parent advisory committee

Community Council Reviewed Date: 5/7/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Enrique Ruacho

Position: Legislative Advocate

E-mail: enrique.ruacho@lausd.net

Telephone: 916-446-6641

Fax:

Bargaining Unit Date: 05/07/2019

Name: Associated Administrators of Los Angeles

Representative: Juan A. Flecha

Title: President

Position: Neutral

Comments:

Bargaining Unit Date: 05/07/2019

Name: United Teachers of Los Angeles

Representative: Alex Caputo-Pearl

Title: President

Position: Neutral

Comments:

# Attachment 3: Waiver #20-5-2019 Los Angeles Unified School District

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1964733

Waiver Number: 20-5-2019

Active Year: 2019

Date In: 5/31/2019 12:57:01 PM

Local Education Agency: Los Angeles Unified School District

Address: 333 South Beaudry Ave.

Los Angeles, CA 90017

Start: 7/1/2018

End: 6/30/2020

Waiver Renewal: Yes

Previous Waiver Number: 15-12-2014

Previous SBE Approval Date: 3/11/2015

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: 45134(c): [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 Board of Education employs staff assistants and field representatives to assist individual Board Members in carrying out their duties. Those assistants are selected by the respective Board Members. One member of the LAUSD Board of Education has selected as an assistant a person who is receiving retirement allowances from the State Teachers' Retirement System. We are applying for a renewal due to prior approval of a similar waiver. Nonetheless, such a waiver may be unnecessary since Education Section 45112 states the following: "If the governing board of any school district employs staff assistants or field representatives to directly assist the governing board or individual governing board member in carrying out their policymaking duties, such assistants or representatives shall be members of the classified services, except that such assistants or representatives shall be exempt from all provisions of this code relating to obtaining a permanent status in any position in the district, and procedures pertaining to the recruitment, appointment, classification, and salary of members of the classified service." LAUSD is requesting a waiver renewal of EC section 45134(c) out of due diligence.

Student Population: 602000

City Type: Urban

Public Hearing Date: 5/7/2019

Public Hearing Advertised: District Website

Local Board Approval Date: 5/7/2019

Community Council Reviewed By: parent advisory committee

Community Council Reviewed Date: 5/7/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Enrique Ruacho

Position: Legislative Advocate

E-mail: enrique.ruacho@lausd.net

Telephone: 916-446-6641Fax:

Bargaining Unit Date: 05/07/2019

Name: Associated Administrators of Los Angeles

Representative: Juan A. Flecha

Title: President

Position: Neutral

Comments:

Bargaining Unit Date: 05/07/2019

Name: United Teachers of Los Angeles

Representative: Alex Caputo-Pearl

Title: President

Position: Neutral

Comments: