

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education March 2020 Agenda Item #W-02

## Subject

Request by **Vista Unified School District** for a renewal 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

12-11-2019

## Type of Action

Action, Consent

## Summary of the Issue(s)

Mission Vista High School is requesting to continue 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. Vista Unified School District (VUSD) was granted a temporary waiver with conditions for Mission Vista High School by the State Board of Education (SBE) at their March 13, 2019, meeting. VUSD is now seeking a permanent waiver of *EC* Section 51222(a) after fulfilling the conditions set by the SBE at their March 13, 2019, meeting and receiving a program monitoring review as part of the requirements set by SBE Waiver Policy 99-03.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

If the general waiver is approved, *EC* Section 33051(b) will apply since the school district will have requested and received a general waiver under this article for two consecutive years. This waiver request is to be considered permanent and the district is not required to reapply annually if the information contained on the request remains current.

## Summary of Key Issues

The SBE approved with conditions the VUSD’s request for a temporary waiver to waive portions of *EC* Section 51222(a), related to the statutory minimum requirement of 400 minutes of PE each 10 school days for students in grades nine through twelve in order to implement a block schedule at Mission Vista High School during the March 13, 2019, meeting. The temporary waiver was granted for the period from July 1, 2018, to June 30, 2020. The conditions specified were that the district must renew this waiver before June 30, 2020 (two years less one day from July 1, 2018, the date that the temporary waiver started), create a uniform way for the school site to document and report to the district evidence of compliance, and collect documentation that provides evidence of compliance for each waiver criteria applicable to SBE Waiver Policy 99-03 annually.

*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. During the 2018–19 academic year, Mission Vista High School implemented 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 school 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 70–90 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.

During the 2019–20 academic year, the district implemented a uniform way for the school site to document and report to the district evidence of compliance concerning the preceding seven criteria. The district will collect documentation annually that provides evidence of compliance for each waiver criteria applicable to SBE Waiver Policy 99-03.

The VUSD was identified for a Federal Program Monitoring (FPM) review by the CDE during the 2018–19 academic year, which is required as part of the SBE Waiver Policy 99-03. The FPM review included a review of the Mission Vista High School. The compliance monitoring of the VUSD resulted in three non-compliance findings, PE Item 02: Instruction—Middle and High School, PE Item 06: Pupil Exemptions, and PE Item 09: Teaching Credentials. All findings were resolved within 45 days of notification. When the district is next identified for a FPM review by the CDE, Mission Vista High School will have PE reviewed as a part of the district’s compliance monitoring 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 1,648 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

The SBE approved with conditions the VUSD’s request for a temporary waiver to waive portions of *EC* Section 51222(a), related to the statutory minimum requirement of 400 minutes of PE each 10 school days for students in grades nine through twelve in order to implement a block schedule at Mission Vista High School during the March 13, 2019, meeting. The conditions specified were that the district must renew this waiver before

June 30, 2020, create a uniform way for the school site to document and report to the district evidence of compliance, and collect documentation that provides evidence of compliance for each waiver criteria applicable to SBE Waiver Policy 99-03 annually.

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 12-11-2019(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** |
| --- | --- | --- | --- | --- | --- | --- |
| 12-11-2019 | Vista Unified School District | **Requested:**  July 1, 2020, to June 30, 2030  **Recommended:**  July 1, 2020, to June 30, 2022  *EC* Section 33051(b) will apply | Vista Teacher Association  Tod Critchlow  Union President  October 14, 2019  **Neutral** | Public Hearing:  November 14, 2019  Local Board Approval:  November 14, 2019 | Posted in local papers, on website, in the Mission Vista High School front office, and displayed in four additional public places | Community Council Reviewed By: The Mission Vista High School Site Council  Review Date: October 3, 2019  **No objections** |

Created by California Department of Education  
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# Attachment 2: Vista Unified School District General Waiver Request 12-11-2019

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 3768452

Waiver Number: 12-11-2019

Active Year: 2019

Date In: 12/1/2019

Local Education Agency: Vista Unified School District

Address: 1234 Arcadia Ave.

Vista, CA 92084

Start: 7/1/2020

End: 6/30/2030

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: 1648

City Type: Suburban

Public Hearing Date: 11/14/2019

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

Local Board Approval Date: 11/14/2019

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

Community Council Reviewed Date: 10/3/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Jeremy Walden

Position: Interim Principal

E-mail: jeremywalden@vistausd.org

Telephone: 760-726-6800 x 73002

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Bargaining Unit Date: 10/14/2019

Name: Vista Teacher Association

Representative: Tod Critchlow

Title: President

Position: Neutral