

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education May 2020 Agenda Item #W-09

## Subject

Request by **San Luis Obispo County Office of Education** to waive California *Education Code* Section 45134(c), to allow the employment of a State Teachers’ Retirement System retiree as a classified Instructional Specialist for the Visually Impaired.

## Waiver Number

* 11-2-2020

## Type of Action

Action, Consent

## Summary of the Issue(s)

The San Luis Obispo County Office of Education (COE) is requesting a waiver of California *Education Code* (*EC*) Section 45134(c), to allow Lynette Roberts, a State Teacher’s Retirement System (STRS) retiree, to be employed as a classified Instructional Specialist for the Visually Impaired.

## 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 San Luis Obispo COE to waive *EC* Section 45134(c) for the period from January 6, 2020 through June 30, 2021, for the employment of Lynette Roberts as an Instructional Specialist for the Visually Impaired.

## Summary of Key Issues

An retired certificated employee may continue to receive a retirement allowance from CalSTRS while collecting a salary for work in classified service if *EC* Section 45134(c) is waived by the SBE. The San Luis Obispo COE is requesting a waiver to allow a retired individual, Lynette Roberts, who was employed as a special education teacher and retired from CalSTRS effective June 8, 2019, to be employed as a classified Instructional Specialist for the Visually Impaired. The district advertised the position for a number of months, from June 2019 through November 2019, and is requesting the waiver due to the specialized nature of the position and the inability to find a qualified candidate to serve visually impaired students. . Ms. Roberts was the sole qualified candidate for the position and the only candidate that passed the interview and testing process and the district is therefore requesting a waiver to employ Ms. Roberts. The district is requesting the waiver for the period from January 6, 2020, through June 30, 2021.

**Demographic Information:** The San Luis Obispo COE has a student population of 78 and is located in a suburban area of San Luis Obispo 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 has approved similar waiver requests in the past. The most recent approvals were at the July 2019 SBE meeting for the Northern Humboldt Union High School District to employ a STRS retiree as a classified school bus driver and the July 2018 SBE meeting for the Sanger Unified School District 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:** San Luis Obispo COE General Waiver Request 11-2-2020 (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** | **Personnel Commission Position** |
| --- | --- | --- | --- | --- | --- |
| 11-2-2020 | San Luis Obispo County Office of Education | **Requested:** January 6, 2020, to June 30, 2021  **Recommended:** January 6, 2020, to June 30, 2021 | CSEA  Jacki Seibert,  Chapter President  December 16, 2019  **Support.** | Approved:  February 6, 2020 | Personnel Commission  January 22, 2020  **No objections** |

Created by California Department of Education  
March 2020

# Attachment 2: San Luis Obispo COE General Waiver Request 11-2-2020

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 4010405

Waiver Number: 11-2-2020

Active Year: 2020

Date In: 2/14/2020 11:38:07 AM

Local Education Agency: San Luis Obispo County Office of Education

Address: 3350 Education Dr.

San Luis Obispo, CA 93405

Start: 1/6/2020

End: 6/30/2021

Waiver Renewal: No

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: [(c) No person shall be employed in school employment while he or she is receiving a retirement allowance under any retirement system by reason of prior school employment, except that a person may be hired: (1) Pursuant to Article 8 (commencing with Section 21220) of Chapter 12 of Part 3 of Division 5 of Title 2 of the Government Code. (2) As an aide in one of the following circumstances: (A) An aide is needed in a class with a high pupil-teacher ratio. (B) An aide is needed to provide one-on-one instruction in remedial classes or for underprivileged students.]

Outcome Rationale: Lynette Roberts has been hired to for the Instructional Specialist for the Visually Impaired position with the San Luis Obispo County Office of Education. This is a classified position that requires Braille skills. San Luis Obispo County Office of Education recruited for this position via www.edjoin.org beginning June 3, 2019. As of November 4, 2019, Lynette Roberts was the sole qualified candidate. Unfortunately other potential candidates did not pass the interview/testing process. Lynette is a retired special education teacher, and retired from CalSTRS effective June 8, 2019. CalSTRS has confirmed Lynette would be eligible to work in a classified position, under specific earnings limitations, if a waiver was granted by CDE. The waiver is being requested due to the specialized nature of the position, and the inability to find another suitable candidate.

Student Population: 78

City Type: Suburban

Public Hearing Date: 2/6/2020

Public Hearing Advertised: Company website, physical posting at main office, local media email distribution, school district email distribution

Local Board Approval Date: 1/22/2020

Community Council Reviewed By: Personnel Commission

Community Council Reviewed Date: 1/22/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Jenni Pong

Position: Human Resources Specialist

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Bargaining Unit Date: 12/16/2019  
Name: CSEA  
Representative: Jacki Seibert  
Title: CSEA Chapter President  
Phone: 805-782-7218  
Position: Support  
Comments: