

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education January 2022 Agenda Item #W-02

## Subject

Request by **Washington 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 River City High School.

## Waiver Number

2-9-2021

## Type of Action

Action, Consent

## Summary of the Issue(s)

River City High School is requesting to continue a 4X4 block schedule where students receive from 828 to 852 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. Washington Unified School District (WUSD) was granted a temporary waiver with conditions for River City High School by the State Board of Education (SBE) at their May 8, 2019 meeting. WUSD did not require an SBE waiver to operate their schools under a block schedule during the 2020–21 school year due Executive Order N-56-20, which was a result of the COVID-19 pandemic. WUSD submitted this waiver request upon the expiration of the Executive Order.

**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 29, 2023 (two years less one day), consistent with 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

The SBE approved with conditions the WUSD’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 River City High School during the May 8, 2019 meeting. The temporary waiver was granted for the period from August 15, 2018, to August 13, 2020. The conditions specified were that the district must renew this waiver before August 13, 2020 (two years less one day from August 15, 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.

Executive Order N-56-20, signed by Governor Newsom, addressed minimum PE instructional minute requirements during the state of emergency as a result of the threat of COVID-19. Specifically, the Executive Order related to PE instructional minutes stated that the requirements specified in EC sections 51210(a)(7), 51220(d), 51222, and 51223, related to minimum instructional minutes in PE for grades one through twelve are waived. WUSD did not require an SBE waiver to operate their schools under a block schedule during the 2020–21 school year to meet thePE instructional minute requirements. Therefore, WUSD submitted this waiver request upon the expiration of Executive Order N-56-20.

*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, River City 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 River City High School are enrolled in PE for only 18 weeks of the school year, receiving instruction for an average of 85 minutes per school day (four days at an average of 90 minutes and one day at an average of 66 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 WUSD high school students are enrolled in PE meets the minimum minute requirements, if added on an annual basis of (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 = 426 |
| Student B | Minutes per week of PE Instruction = 426 | Minutes per week of PE Instruction = 0 |

The California Department of Education (CDE) has worked closely with WUSD 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 River City 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 66–90 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.

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 during the 2018–19 academic year. The district will collect documentation annually that provides evidence of compliance for each waiver criteria applicable to SBE Waiver Policy 99-03.

The WUSD was identified for a Federal Program Monitoring (FPM) review by the CDE during the 2017–18 academic year, which is required as part of the SBE Waiver Policy 99-03. The compliance monitoring resulted in six non-compliance findings for WUSD, which WUSD resolved by June 2019. River City High School was one of three school sites included in the review. The review of River City High School revealed that the school was operating under a 4X4 block schedule in grades nine through twelve that did not provide each student with PE instruction for a minimum of 400 minutes each 10 school days. Therefore, WUSD received a compliance monitoring finding and was instructed to request an SBE waiver approval of *EC* Section 51222(a) in order to continue operating River City High School under a 4X4 block schedule. When the district is next identified for an FPM review by the CDE, River City High School will have PE reviewed as a part of the district’s compliance monitoring process.

As required by SBE Waiver Policy 99-03, PE Requirements for Block Schedules, the 2017–18 California Physical Fitness Test (PFT) data from River City High School was reviewed and indicates that 39.7 percent of the grade nine students met all six out of six fitness standards on each of the PFT items. This indicates a 4.2 percent increase from their 2016–17 (35.5 percent).

**Demographic Information:** River City High School has a student population of 2,233 and is located in a suburban area in Yolo 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* Section 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 WUSD requested approval by the SBE to waive portions of *EC* Section51222(a) related to statutory PE instructional minutes at the March 8, 2019 meeting. The WUSD waiver request was contested by the California Teachers Association on behalf of the West Sacramento Teachers Association (WSTA) and as a result, the SBE postponed action until their May 2019 SBE meeting.

The SBE received notice by the WSTA President Donald Stauffer that WSTA met with WUSD and is now in support of the WUSD waiver request application on April 10, 2019.

The SBE approved with conditions the WUSD’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 River City High School during the May 8, 2019 meeting. The conditions specified were that the district must renew this waiver before August 14, 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, PE 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 PE 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

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:** Washington Unified School District General Waiver Request 2-9-2021 (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* (*EC*) 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** |
| --- | --- | --- | --- | --- | --- | --- |
| 2-9-2021 | Washington Unified School District | **Requested:**  August 11, 2021, to June 2, 2023  **Recommended:**  July 1, 2021  to June 29, 2023 | West Sacramento Teachers Association  Douglas Knepp  West Sacramento Teachers Association President  July 26, 2021  **Support** | **Public Hearing:**  August 12, 2021  **Local Board** **Approval:**  August 12, 2021 | Community newspaper and the Washington Unified School District website | **Community Council Reviewed By:**  River City High School Site Council  **Review Date:**  September 21, 2021  Objection:  **No objections** |

Created by California Department of Education  
October 2021

# Attachment 2: Washington Unified School District General Waiver Request 2-9-2021

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 5772694

Waiver Number: 2-9-2021

Active Year: 2021

Date In: 9/15/2021 12:27:10 PM

Local Education Agency: Washington Unified

Address: 930 Westacre Rd.

West Sacramento, CA 95691

Start: 8/11/2021

End: 6/2/2023

Waiver Renewal: N

Previous Waiver Number: 05-8-2018

Previous SBE Approval Date: 5/8/2019

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: All pupils, except pupils excused or exempted pursuant to Section 51241, shall be required to attend upon the courses of physical education for a total period of time of not less than 400 minutes each 10 schooldays. Any pupil may be excused from physical education classes during one of grades 10, 11, or 12 for not to exceed 24 clock hours in order to participate in automobile driver training. Such pupil who is excused from physical education classes to enroll in driver training shall attend upon a minimum of 7,000 minutes of physical education instruction during such school year.

Outcome Rationale: River City High School (RCHS) is on a 4X4 block schedule where students receive 824-900 minutes of Physical Education (PE) instruction each 10 school days for 17 to 20 weeks depending if it is first or second semester. California *Education Code* (*EC*) Section 51222 (a) requires a minimum of 400 minutes each 10 school days for the entire school year. Because students at RCHS only take PE for one semester, they are seeking a waiver to *EC* Section 51222(a).

Student Population: 7449

City Type: Suburban

Public Hearing Date: 8/12/2021

Public Hearing Advertised: It was announced in the community newspaper, on school district website

Local Board Approval Date: 8/12/2021

Community Council Reviewed By: River City High School School Site Council

Community Council Reviewed Date: 9/21/2021

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Mr. Matt Ainsworth

Position: Director of Curriculum and Instruction

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Telephone: 916-375-7600

Fax:

Bargaining Unit Date: 07/26/2021

Name: West Sacramento Teachers Association

Representative: Douglas Knepp

Title: WSTA President

Phone: (916)202-6201

Position: Support

Comments: