

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education July 2023 Agenda Item #W-03

## Subject

Request by **Los Angeles 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 John C. Fremont and Ulysses S. Grant Senior High Schools.

## Waiver Number

7-2-2023

## Type of Action

Action, Consent

## Summary of the Issue(s)

John C. Fremont and Ulysses S. Grant Senior High Schools (Fremont and Grant High Schools) are requesting to implement a 4X4 block schedule where students receive from 826 to 854 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. Fremont and Grant High School students only take PE for one semester; therefore, Los Angeles Unified School District (LAUSD) 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 August 5, 2025 (two years less two days), 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. Fremont and Grant High Schools 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 Fremont and Grant High Schools are enrolled in PE for only 18 weeks of the school year, receiving instruction for 80 to 90 minutes per school day, respectively. This means that PE is taught for over 400 minutes per school week (or 800 minutes each 10 days). Therefore, the actual time that LAUSD 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 = 400 |
| Student B | Minutes per week of PE Instruction = 400 | Minutes per week of PE Instruction = 0 |

The California Department of Education (CDE) has worked closely with LAUSD 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 Fremont and Grant High Schools 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 those schools.
3. The students are enrolled in courses of PE a minimum of 18 weeks in 80–90 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, Fremont and Grant High Schools in LAUSD shall have PE reviewed as a part of the district’s FPM process.

For the 2021–22 school year the Body Composition component and the Body Composition Healthy Fitness Zone (HFZ) were not a part of the physical fitness testing (PFT). Therefore, the reporting of PFT results are for student participation in the five remaining fitness components. The most recent data that is available for the student physical fitness HFZs is from the 2018–19 school year and earlier. As required by SBE Waiver Policy 99-03, PE Requirements for Block Schedules, the 2017–18 and 2018–19 California PFT data was reviewed. Please see table below that includes the schools and their PFT data.

| School | 2017–18 % of grade nine students who scored 6/6 on the fitness standards | 2018–19 % of grade nine students who scored 6/6 on the fitness standards |
| --- | --- | --- |
| Fremont High School | 17.5% | 17.6% |
| Grant High School | 33% | 23.7% |

**Demographic Information:** LAUSD has a student population of 538,295 and is located in an urban area located in Los Angeles County. The combined student enrollment for the two schools applying for the block schedule waiver are 3,810 students.

**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, 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 (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:** Los Angeles Unified School District General Waiver Request 7-2-2023 (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** |
| --- | --- | --- | --- | --- | --- | --- |
| 7-2-2023 | **Los Angeles Unified School District** | **Requested:**  8/7/2023 to  8/4/2025  **Recommended:**  8/7/2023 to 8/5/2025 | Bargaining Unit Date: 02/16/2023  **United Teachers of Los Angeles**  **Representative:** Arlene Inouye  **Title:** Bargaining Co-Chair  **Position:** Support | **Public Hearing:**  2/7/2023  **Local Board Approval:** 2/7/2023 | District Website | **Community Council Reviewed By:** School Site Councils  **Review Date:** 9/12/2022  **Objection:** N |

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# Attachment 2: Los Angeles Unified School District General Waiver Request 7-2-2023

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1964733

Waiver Number: 7-2-2023

Active Year: 2023

Date In: 2/17/2023 3:55:48 PM

Local Education Agency: Los Angeles Unified

Address: 333 South Beaudry Ave.

Los Angeles, CA 90017

Start: 8/7/2023

End: 8/4/2025

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: LAUSD is requesting a waiver from *Education Code* section 51222 (a) and (b) [which requires pupils to attend 400 minutes of physical education for a total period of time of not less than 400 minutes each 10 school days].

Outcome Rationale: *EC* section 51222(a) established requirements for minimum instructional minutes of PE, 400 minutes each ten school days for pupils in grades seven through twelve. Six schools have implemented a block schedule in grades nine through twelve that do no provide each student with PE instruction for a minimum of 400 minutes each ten school days. The District allowed schools to transition to an alternative master schedule in order to mitigate learning loss due to COVID-19 school closures, 4x4 schedules were offered as opportunities to implement acceleration, enrichment, additional electives, and other opportunities to take courses that will not fit into a traditional 6-period day. Although graduation requirements remain unchanged, the 4x4 also provides additional opportunities for grade enhancement to improve a D to a C or better grade.

The schools are: USC Iovine-Young Academy; Legacy VAPA; Chavez LA Tech Prep; Grant High School; Panorama High School; and Fremont High School.

Student Population: 565479

City Type: Urban

Public Hearing Date: 2/7/2023

Public Hearing Advertised: District Website

Local Board Approval Date: 2/7/2023

Community Council Reviewed By: School Site Councils

Community Council Reviewed Date: 9/12/2022

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Dr. Fabian Naranjo Gonzalez

Position: Coordinator of Legislative Advocacy

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Bargaining Unit Date: 02/16/2023

Name: United Teachers of Los Angeles

Representative: Arlene Inouye

Title: Bargaining Co-Chair

Phone: 213-479-7379

Position: Support