

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of Education March 2018 Agenda Item #W-03

## Subject

Request by **Lincoln Unified School District** to waive California *Education Code* Section 44663(b) evaluation dates of June 30 and July 30 for non-instructional certificated employees so that California Assessment of Student Performance and Progress test results for the year may be included in the evaluation criteria for those management employees.

## Waiver Number

7-1-2018

## Type of Action

Action

## Summary of the Issue(s)

Lincoln Unified School District (LUSD) seeks to move the non-instructional certificated employee evaluation dates from June 30 and July 30 as defined in California *Education Code* to an unspecified date after California Assessment of Student Performance and Progress (CAASPP) test results are made public, but before September 30. The district wishes to use this information in the evaluations of non-instructional certificated employees.

## **Authority for Waiver**

*Education Code (EC)* Section 33050

## Recommendation

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

The California Department of Education (CDE) recommends that the State Board of Education (SBE) deny the waiver for LUSD for the following reason:

California *EC* Section33051(a)(4) Pupil or school personnel protections are jeopardized.

*EC* Section 60602.5 mandates the provision of an assessment system that has the primary purposes of assisting teachers, administrators, and pupils and their parents; improving teaching and learning; and promoting high-quality teaching and learning using a variety of assessment approaches and item types. The assessments are designed to produce scores that can be aggregated and disaggregated for the purpose of holding schools and local educational agencies accountable for the achievement of all their pupils in learning the California academic content standards.

The CDE recommends assessments be used for the purposes for which they were developed and the CAASPP tests, inclusive of English language arts/literacy (ELA) and mathematics from the Smarter Balanced Assessment Consortium (SBAC), were not developed for the purpose of personnel evaluations. Given they were not developed for that purpose, validity evidence does not exist that would support that use.

## Summary of Key Issues

LUSD is requesting the SBE waive California *EC* Section 44663(b) evaluation dates of June 30 and July 30 for non-instructional certificated employees so that CAASPP test results for the year may be included in the evaluation criteria for those management employees. The SBE previously approved a similar waiver for LUSD with the condition that the Standardized Testing and Reporting (STAR) test data not be used by the district as a basis for any adverse personnel actions. The term of that waiver was from May 1, 2011 through September 30, 2011.

The district’s rationale for the waiver in 2011 is the same for this waiver which is the June 30 deadline does not allow the district to incorporate student test results into its assessment of its certificated non-instructional employees. When the previous waiver was approved in 2011, California was using the STAR assessment system. STAR ended on July 1, 2013, and was replaced by the CAASPP system.

However, the district does not have to wait for the public report to have access to its test scores and summary reports. Final CAASPP aggregate results are not reported to the public until August. However, computer-based assessment results are available to local educational agencies two to three weeks after the student has completed all components of the assessment for that content area. Individual student scores and preliminary summary reports are available in the CAASPP Online Reporting System. District coordinators have access to preliminary test results and summary reports in the Online Reporting System for the district and all schools within the district. Test site coordinators have access to the same information but only at the school level. Interim assessment data is accessible 20 minutes after test completion if there are no hand-scored components.

The waiver request is supported by the local board, the California School Employees Association, and the district’s Community Council. The local teacher bargaining group, which does not represent the certificated non-instructional employees, has adopted a “neutral” position on this matter. The May 2011 SBE meeting agenda attachment indicates that the local teacher bargaining group opposed the waiver because it did not believe an evaluation should be tied to standardized student test scores.

The CAASPP assessment system is not designed for use in personnel evaluations. California standardized tests do not include the required sample amount of questions to be sensitive to classroom instruction or to evaluate non-instructional employees. The use of CAASPP data in an employee evaluation could jeopardize school personnel protections, those of the certificated non-instructional employee, if that evaluation contributed to the employee’s dismissal.

**Demographic Information:** LUSD has a student population of 9,438 and is located within the city of Stockton in San Joaquin 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>.

The reason for this waiver to be denied is:

California *EC* Section33051(a)(4) Pupil or school personnel protections are jeopardized.

## Summary of Previous State Board of Education Discussion and Action

During its May 2011 meeting, the SBE approved a request by LUSD to waive the *EC* Section 44663(b) evaluation dates of June 30 and July 30 for non-instructional certificated employees with the condition that the STAR data not be used by the district as a basis for any adverse personnel actions. The CDE recommended denial of this waiver request at the May 2011 SBE meeting.

## Fiscal Analysis (as appropriate)

There is no statewide fiscal impact of waiver approval (or denial).

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Lincoln Unified School District General Waiver Request (2 pages). The original waiver request is signed and on file in the Waiver Office.

# Attachment 1: Summary Table

California *Education Code (EC)* Section 41402

| Waiver Number | District | Period of Request | Bargaining Unit Representatives Consulted, Date and Position | Bargaining Unit Representatives Consulted, Date and Position | Local Board and Public Hearing Approval | Public hearing advertised |
| --- | --- | --- | --- | --- | --- | --- |
| 7-1-2018 | Lincoln Unified School District | **Requested:**  July 1, 2017 to June 30, 2020  **Recommended:** July 1, 2017 to June 28, 2019 | Lincoln Unified Teachers Association,  Tiffany Fuhrmeister President 9/9/2017  **Neutral** | California School Employees Association,  Leo Castaneda President  **Support** | Local Board Approval 9/20/2017  School Site Council 5/5/2017  **No Objections** | District sent notification via e-mail, posted information at each school site, and posted to the district’s Web page |

Created by California Department of Education  
January 2018

# Attachment 2: Lincoln Unified School District General Waiver Request 7-1-2018

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 3968569

Waiver Number: 7-1-2018

Active Year: 2018

Date In: 1/8/2018 11:10:04 AM

Local Education Agency: Lincoln Unified School District

Address: 2010 West Swain Rd.

Stockton, CA 95207

Start: 7/1/2018

End: 7/1/2020

Waiver Renewal: No

Waiver Topic: Principal Evaluation and Assessment

Ed Code Title: Extend Timeline of Evaluation

Ed Code Section: Section 44663(b)

Ed Code Authority: 33050-33053

*Education Code* or *CCR* to Waive: *Education Code* Section 44663(b): In the case of a certificated non-instructional employee, who is employed on a 12-month basis, the evaluation and assessment made pursuant to this article shall be reduced to writing and a copy thereof shall be transmitted to the certificated employ [no later than June 30 of the year in which the evaluation and assessment is made.] A certificated non-instructional employee, who is employed on a 12-month basis shall have the right to initiate a written reaction or response to the evaluation. This response shall become a permanent attachment to the employee's personnel file. [Before July 30 of the year in which the evaluation and assessment takes place,] a meeting shall be held between the certificated employee and the evaluator to discuss the evaluation and assessment.

Outcome Rationale: Section 44663(b) provides that certificated non-instructional employees (e.g. school administrators) must receive a copy of their annual performance evaluation no later than June 30 of the year in which they are evaluated. However the June 30 deadline does not allow for the District to incorporate California Assessment of Student Performance and Progress (CAASPP) results into its assessment of its certificated non-instructional employees. This is because CAASPP results are not reported to the District until August, therefore, this data is not available to the district by the time its evaluations must be completed.

The District considers CAASPP results to be a critical indicator of student achievement at any given school site. Thus, the District believes it can more effectively evaluate the performance of its school administrators when it can incorporate the current year’s CAASPP data. More accurate and complete evaluations of school administrators and other certificated non-instructional staff will enable the District to set appropriate academic achievement goals for each school site and to make the necessary assignments based on each subject employee’s strength and weaknesses identified through the evaluation process.

Student Population: 9428

City Type: Small

Public Hearing Date: 9/20/2017

Public Hearing Advertised: Sent via email, posted at all school sites including the district office and posted on the website.

Local Board Approval Date: 9/20/2017

Community Council Reviewed By: Joint meeting between the District Language Advisory Committee and School Site Coucil Representative

Community Council Reviewed Date: 10/24/2017

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Bonnie King

Position: Executive Assistant

E-mail: [bking@lusd.net](mailto:bking@lusd.net)

Telephone: 209-639-3894

Fax: 209-474-7817

Bargaining Unit Date: 09/14/2017

Name: California School Employees Association

Representative: Leo Castaneda

Title: President, CSEA

Position: Support

Bargaining Unit Date: 09/09/2017

Name: Lincoln Unified Teachers Association

Representative: Tiffany Fuhrmeister

Title: President, LUTA

Position: Neutral