

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of EducationMay 2023 AgendaItem #W-10

## Subject

Request by the **Inglewood Unified School District** to waive California *Education Code* Section 45134(c), in which no person shall be employed in a classified position in school employment while he or she is receiving a retirement allowance under any retirement system by reason of prior school employment, to allow a retired individual, Dr. James Morris, to be appointed to a classified position as the County Administrator.

## Waiver Number

5-1-2023

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Inglewood Unified School District (USD) is requesting a waiver of California *Education Code* *(EC)* Section 45134(c), to allow Dr. James Morris, a California State Teachers’ Retirement System (CalSTRS) retiree, to be appointed to a classified position as the County Administrator.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

The California Department of Education (CDE) recommends the State Board of Education (SBE) approve the request by the Inglewood USD to waive *EC* Section 45134(c) for the period from January 23, 2023, through January 23, 2026, only on the condition that the CalSTRS determines that the County Administrator position is a classified position and that Dr. Morris would not be performing retired member activities as defined in *EC* Section 22164.5.

## Summary of Key Issues

*EC* Section 45134 precludes the employment of retired CalSTRS members in classified positions. An employee may continue to receive a retirement allowance while collecting a salary for work in classified service if *EC* Section 45134(c) is waived. Inglewood USD is requesting the waiver to allow a retired CalSTRS member, Dr. James Morris, to be appointed to a classified County Administrator position with the Inglewood USD.

Inglewood USD received an emergency apportionment pursuant to Chapter 325, Statutes of 2012. Under the terms of the emergency apportionment and *EC* Section 41326, the Los Angeles County Superintendent of Schools assumes all legal rights, duties, and powers of the Inglewood USD governing board.

Pursuant to statute, the Los Angeles County Superintendent of Schools, with concurrence from the State Superintendent of Public Instruction (SSPI) and the President of the SBE, appoints a County Administrator to exercise the authority of the County Superintendent. The County Administrator acts as both the governing board and superintendent of the district. The appointment is made from a pool of candidates identified and vetted by the Fiscal Crisis and Management Assistance Team (FCMAT).

Inglewood USD has experienced a lack of continuity in leadership, both before and after the state emergency loan. In order for the district to return to local governing board control, the district must show adequate progress in implementing FCMAT’s comprehensive review recommendations in the five operational areas of finance, human resources, community relations and governance, facilities, and pupil achievement. The county superintendent, with concurrence from the SSPI and President of the SBE, must also determine that the district has built sufficient capacity to self-govern.

On January 23, 2023, Dr. James Morris was appointed to the County Administrator position, with a three-year contract, by the County Superintendent, with concurrence from the SSPI and the President of the SBE, after a statewide search was conducted with the assistance of the FCMAT. Dr. Morris was found to be the most qualified candidate to assist the district in its return to local control due, in part, to: (1) serving as a successful superintendent for a large school district, (2) establishing strong relationships with district partners, (3) having experience passing a bond for a school district, and (4) having experience leading the consolidation and closure of school campuses as a chief executive officer. In addition, Dr. Morris provided support to the previous County Administrator and is familiar with the Inglewood USD.

With regard to the County Administrator position, *EC* Section 41326(b)(5) states “…the administrator shall be a member of the State Teachers’ Retirement System, if qualified, for the period of service as administrator, unless he or she elects in writing not to become a member. A person who is a member or retirant of the State Teachers’ Retirement System at the time of appointment shall continue to be a member or retirant of the system for the duration of the appointment....”

Dr. Morris is receiving a CalSTRS retirement benefit and is subject to the fiscal year earnings limitation if he is performing “retired member activities” as defined in *EC* Section 22164.5. The earnings limit for fiscal year 2023-24 is $50,655 per year. Earnings for retired member activities in excess of the earnings limit would result in a reduction of an amount equal to the excess earnings from the individual’s retirement benefit payments.

Inglewood USD has asserted that the County Administrator position is a classified position and would not be subject to the CalSTRS earnings limit for retirement benefits. Because it is unclear whether the County Administrator position would be considered a classified position or a position performing “retired member activities” by CalSTRS, CDE recommends that the district consult with CalSTRS to determine whether the position is performing creditable service and that approval of this waiver be conditional upon a CalSTRS determination that the position is a classified position.

**Demographic Information:** The Inglewood USD has a student population of 6,667, and is located in an urban area of Los Angeles 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 approved requests from the Los Angeles USD to employ a STRS retiree in a classified staff assistant to a board member position. In addition, the SBE has approved previous requests from the Sanger USD 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:** Inglewood USD General Waiver Request 5-1-2023 (3 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** | **Advisory Committee Position** |
| --- | --- | --- | --- | --- | --- |
| 5-1-2023 | Inglewood Unified School District | **Requested:**January 23, 2023, to January 23, 2026**Recommended:**January 23, 2023, to January 23, 2026 | Inglewood Teachers AssociationAba Ngissah, PresidentJanuary 5, 2023**Support**Inglewood Management AssociationGarry Gregory, PresidentJanuary 5, 2023**Support** | Approved:January 11, 2023 | District Parent Advisory CommitteeJanuary 17, 2023**No objections** |

Created by California Department of Education
April 2023

# Attachment 2: California Department of Education

## WAIVER SUBMISSION – General

CD Code: 1964634

Waiver Number: 5-1-2023

Active Year: 2023

Date In: 1/18/2023 3:20:15 PM

Local Education Agency: Inglewood Unified

Address: 401 South Inglewood Ave.

Inglewood, CA 90242

Start: 1/23/2023

End: 1/23/2026

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: “No person shall be employed in a school employment while he or she is receiving retirement allowance under any retirement system by reason or prior school employment…”

Outcome Rationale: Los Angeles County Superintendent of Schools Dr. Debra Duardo appointed Dr. James Morris as the new county administrator for the Inglewood Unified School District. The appointment follows the departure of the district’s most recent county administrator, Dr. Erika Torres at the end of October.

Per *Education Code*, Los Angeles County Superintendent of Schools Dr. Debra Duardo, with concurrence from both State Superintendent of Instruction Tony Thurmond and President of the State Board of Education Dr. Linda Darling-Hammond, appoints an administrator from a pool of candidates identified and vetted by the Fiscal Crisis Management Assistance Team.

Dr. Morris will begin his new classified position on January 23, 2023, and serve with a short transition with Arturo Valdez, who has been serving as an interim county superintendent since November 2022.

Inglewood Unified has been in state receivership since 2012, when the State of California made an emergency appropriation of $29 million to help the district avoid fiscal insolvency. During the receivership, a series of seven state administrators were assigned by the state superintendent of public instruction to lead the school district. Before Assembly Bill 1840 passed in 2018, LACOE provided fiscal oversight of Inglewood Unified, and the state provided direct, hands-on leadership of the district.

The passage of Assembly Bill 1840 in 2018 assigned county offices of education with the oversight responsibility of school districts in receivership. The state provides support through the California Collaborative for Educational Excellence and the independent Fiscal Crisis and Management Assistance Team, which gives managerial assistance and training to school districts in financial distress.

Student Population: 6667

City Type: Urban

Public Hearing Date: 1/11/2023

Public Hearing Advertised: District website

Local Board Approval Date: 1/11/2023

Community Council Reviewed By: District Parent Advisory Committee

Community Council Reviewed Date: 1/17/2023

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Daisy Esqueda

Position: Chief of Staff, Los Angeles County Office of Education

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Telephone: 562-745-5400

Bargaining Unit Date: 01/05/2023
Name: Inglewood Management Association
Representative: Garry Gregory
Title: President
Phone: 310-418-7924
Position: Support

Bargaining Unit Date: 01/05/2023
Name: Inglewood Teachers Association
Representative: Aba Ngissah
Title: President
Phone: 310-673-0907
Position: Support