

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education July 2024 Agenda Item #W-02

## Subject

Request by **Los Angeles Unified School District** for a renewal 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 block schedules at Cesar E. Chavez Learning Academies-Academy of Scientific Exploration, Gardena Senior High, Nathaniel Narbonne Senior High, John H. Francis Polytechnic, and Theodore Roosevelt Senior High.

## Waiver Numbers

7-4-2024

## Type of Action

Action, Consent

## Summary of the Issue(s)

Los Angeles Unified School District is requesting to continue the 4X4 block schedules at Cesar E. Chavez Learning Academies-Academy of Scientific Exploration (ASE), Gardena Senior High (GSH), Nathaniel Narbonne Senior High (NNSH), John H. Francis Polytechnic (JFP), and Theodore Roosevelt Senior High (TRSH) where students receive at the minimum 800 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. The students from the five schools only take PE for one semester, thus, Los Angeles Unified School District (LAUSD) requested a waiver of *EC* Section 51222(a). LAUSD was granted a temporary waiver with conditions for ASE, GSH, NNSH, JFP, and TRSH by the State Board of Education (SBE) at the May 18, 2022, meeting (W-08).

Los Angeles Unified School District is now seeking a permanent waiver of *EC* Section 51222(a) after fulfilling the conditions set by the SBE on May 18, 2022 (W-08), and receiving a program monitoring review as part of the requirements set by the SBE Waiver Policy 99-03.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

If the general waiver is approved, *EC* Section 33051(b) will apply since the school district will have requested and received a general waiver under this article for two consecutive years. This waiver request is to be considered permanent, and the district is not required to reapply annually if the information on the request remains current.

## Summary of Key Issues

The SBE approved with conditions the Los Angeles Unified School District’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 block schedules at ASE, GSH, NNSH, JFP, and TRSH, during the May 18, 2022 meeting (W-08). The temporary waiver was granted for the period from August 8, 2022–August 6, 2024. The conditions specified were that the district must renew this waiver before August 6, 2024 (two years less two days from the start date August 8, 2022), 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.

Students at ASE, GSH, NNSH, JFP and TRSH are enrolled in PE for 18 weeks of the school year, receiving instruction for at least 80 minutes each school day. This means that PE is taught for at least 400 minutes per school week (or 800 minutes each 10 days). Therefore, the actual time that ASE, GSH, NNSH, JFP and TRSH students are enrolled in PE meets the minimum minute requirements, if added annually (7,200 minutes).

| **Sample Student Schedules** | **Fall Term**  18 Consecutive Weeks | **Spring Term**  18 Consecutive Weeks |
| --- | --- | --- |
| Student A | Minutes per week of PE Instruction = 400 | Minutes per week of PE Instruction = 0 |
| Student B | Minutes per week of PE Instruction = 0 | Minutes per week of PE Instruction = 400 |

The California Department of Education (CDE) has worked closely with Los Angeles Unified School District 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 ASE, GSH, NNSH, JFP and TRSH 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 80-minute daily class periods during the regular school year.
4. LAUSD 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 includes 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.

During the 2022–23 and 2023-24 academic years, 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. The district will collect documentation annually that provides evidence of compliance for each waiver criteria applicable to SBE Waiver Policy 99-03.

The Los Angeles Unified School District was identified for a Federal Program Monitoring (FPM) review by the CDE during the 2022–23 academic year, which is required as part of the SBE Waiver Policy 99-03. The FPM review included a review of ASE and NNSH. The compliance monitoring of the Los Angeles Unified School District resulted in three non-compliance findings: PE Items 02: Instruction—Middle and High School, 04: Physical Fitness Testing (Student participation results), and 07: Teaching and Evaluation. The Los Angeles Unified School District is in the process of resolving the findings. When the district is next identified for a FPM review by the CDE, one or more of the high schools included in this waiver will have PE reviewed as a part of the district’s compliance monitoring process.

The SBE Waiver Policy 99-03 requires that the California Physical Fitness Test (PFT) data will be reviewed for school(s) who request a waiver, initially and on request for renewal of the waiver to determine improvement or at minimum, maintenance of students’ levels of health-related fitness. The CDE is currently following emergency regulations that require local educational agencies to administer the PFT to eligible students only using five testing components and the local educational agencies are only required to report the PFT student participation results which exclude Healthy Fitness Zone fitness scores at this time.

**Demographic Information:** The Los Angeles Unified School District has a student population of 389,420 an-d is in the urban areas 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* Section 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

The SBE has previously approved with conditions the Los Angeles Unified School District’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 to implement block schedules. During the May 18, 2022, meeting, the SBE granted temporary, conditional waivers granted to ASE, GSH, NNSH, JFP and TRSH (W-08) for the period from August 8, 2022–August 6, 2024. The conditions specified were that the district must renew this waiver before August 6, 2024 (two years less two days from the start date August 8, 2022), 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, last revised in July 2006, establishes criteria for granting waivers related to PE instructional minutes for 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.](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 (3 pages)
* **Attachment 2:** Los Angeles Unified School District General Waiver Request 7-4-2024. (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** |
| --- | --- | --- | --- | --- | --- | --- |
| 7-4-2024 | Los Angeles Unified School District | **Requested:**  Start: 8/8/2024 End: 8/6/2026  **Recommended:**  **Permanent Waiver** *Education Code* (*EC*) Section 33051(b) will apply | Unified Teachers Los Angeles  Representative: Alex Orozco  Title: Secondary Vice President  Date: 4/11/2024  Position: **Support** | Public Hearing  Date: 3/12/2024  Local Board Approval: Yes  Date: 3/12/2024 | Board Agenda posted on Los Angeles Unified School District website | Chavez Academy of Scientific Exploration School Site Council  Review Date: 3/15/2024  **Objection: No** |
| 7-4-2024 | Los Angeles Unified School District | **Requested:**  Start: 8/8/2024 End: 8/6/2026  **Recommended:**  **Permanent Waiver** *EC* Section 33051(b) will apply | Unified Teachers Los Angeles  Representative: Alex Orozco  Title: Secondary Vice President  Date: 4/11/2024  Position: **Support** | Public Hearing  Date: 3/12/2024  Local Board Approval: Yes  Date: 3/12/2024 | Board Agenda posted on Los Angeles Unified School District website | Gardena Senior High Site Council  Review Date: 5/25/2021  **Objection: No** |
| 7-4-2024 | Los Angeles Unified School District | **Requested:**  Start: 8/8/2024 End: 8/6/2026  **Recommended:**  **Permanent Waiver** *EC* Section 33051(b) will apply | Unified Teachers Los Angeles  Representative: Alex Orozco  Title: Secondary Vice President  Date: 4/11/2024  Position: **Support** | Public Hearing  Date: 3/12/2024  Local Board Approval: Yes  Date: 3/12/2024 | Board Agenda posted on Los Angeles Unified School District website | Nathaniel Narbonne Senior High Site Council  Review Date: 2/21/2023  **Objection: No** |
| 7-4-2024 | Los Angeles Unified School District | **Requested:**  Start: 8/8/2024 End: 8/6/2026  **Recommended:**  **Permanent Waiver** *EC* Section 33051(b) will apply | Unified Teachers Los Angeles  Representative: Alex Orozco  Title: Secondary Vice President  Date: 4/11/2024  Position: **Support** | Public Hearing  Date: 3/12/2024  Local Board Approval: Yes  Date: 3/12/2024 | Board Agenda posted on Los Angeles Unified School District website | John H. Francis Polytechnic High Site Council  Review Date: 9/15/2020  **Objection: No** |
| 7-4-2024 | Los Angeles Unified School District | **Requested:**  Start: 8/8/2024 End: 8/6/2026  **Recommended:**  **Permanent Waiver** *EC* Section 33051(b) will apply | Unified Teachers Los Angeles  Representative: Alex Orozco  Title: Secondary Vice President  Date: 4/11/2024  Position: **Support** | Public Hearing  Date: 3/12/2024  Local Board Approval: Yes  Date: 3/12/2024 | Board Agenda posted on Los Angeles Unified School District website | Theodore Roosevelt Senior High School Site Council  Review Date: 5/20/2024  **Objection: No** |

# Attachment 2: Los Angeles Unified School District General Waiver Request 7-4-2024

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 1964733

Waiver Number: 7-4-2024

Active Year: 2024

Date In: 4/12/2024 4:54:47 PM

Local Education Agency: Los Angeles Unified

Address: 333 South Beaudry Ave.

Los Angeles, CA 90017

Start: 8/8/2024

End: 12/31/2100

Waiver Renewal: Yes

Previous Waiver Number: 7-2-2022

Previous SBE Approval Date: 05/18/2022

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: EDC 51222

Outcome Rationale: Los Angeles Unified requests permanent PE waivers for the following 5 schools in order to implement a 4x4 block schedule.

Polytechnic High School

Chavez Academy of Scientific Exploration

Roosevelt High School

Gardena High School

Narbonne High School

The schools listed above have adopted a 4x4 block schedules, where students take fewer classes for longer time periods each day for a quarter or a semester, are unable to meet the statutory requirement of offering 400 minutes of physical education instruction every 10 days.

There are many benefits to block scheduling. The longer class periods allow for more in-depth learning in a single class period, and taking fewer classes at one time allows students to better focus on the coursework they are currently learning. Additionally, block scheduling allows students to pursue up to eight courses each year, as opposed to the more usual six or seven on five-day-a-week school schedules. This ability to take additional courses allows students greater flexibility to pursue electives and accelerate their learning.

Student Population: 389420

City Type: Urban

Public Hearing Date: 3/12/2024

Public Hearing Advertised: Board meeting agenda on website

Local Board Approval Date: 3/12/2024

Community Council Reviewed By: School Site Councils

Community Council Reviewed Date:

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Anna Ioakimedes

Position: Legislative Advocate

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Bargaining Unit Date: 4/11/2024

Name: United Teachers Los Angeles

Representative: Alex Orozco

Title: Secondary Vice President

Phone: 323-337-3868

Position: Support