

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education November 2023 AgendaItem #W-03

## Subject

Request by **Washington 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 a block schedule at River City High School.

## Waiver Number

6-5-2023

## 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 a minimum of 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. 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 the January 12, 2022, SBE meeting (W-02). WUSD is now seeking a permanent waiver of *EC* Section 51222(a) after fulfilling the conditions set by the SBE on January 12, 2022, 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 contained on the request remains current.

## Summary of Key Issues

The SBE approved with conditions the WUSD 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 January 12, 2022, SBE meeting. The temporary waiver was granted for the period from July 1, 2021, to

June 29, 2023. The conditions specified were that the district must renew this waiver before June 29, 2023 (two years less one day from July 1, 2021, 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.

*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 2021–22 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 (10 days at an average of 85 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 River City 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 = 425 | Minutes per week of PE Instruction = 0 |
| Student B | Minutes per week of PE Instruction = 0 | Minutes per week of PE Instruction = 425 |

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 85-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.

During the 2021–22 academic year, 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 WUSD was identified for a Federal Program Monitoring (FPM) review by the CDE during the 2021–22 academic year, which is required as part of the SBE Waiver Policy 99-03. The FPM review included a review of River City High School. The compliance monitoring of the WUSD resulted in two non-compliance findings, PE Item 02: Instruction—Middle and High School and PE Item 06: Pupil Exemptions. All findings were resolved within the appropriate timeline. 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.

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 (LEAs) to administer the PFT to eligible students only using five testing components and the LEAs are only required to report the PFT student participation results which exclude Healthy Fitness Zone fitness scores at this time.

**Demographic Information:** WUSD is located in Yolo County and River City High School has a student enrollment of 2,130.

**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** <https://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 with conditions the WUSD 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 January 12, 2022, SBE meeting. (<https://www.cde.ca.gov/be/ag/ag/yr22/documents/jan22w02.docx>.)

The conditions specified in the January 2022 waiver were that the district must renew this waiver before June 29, 2023, 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 (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:** Washington Unified School District General Waiver Request 6-5-2023(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* (*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** |
| --- | --- | --- | --- | --- | --- | --- |
| 6-5-2023 | **Washington Unified School District** | **Requested:**6/30/2023 to 6/27/2025**Recommended:**Permanent Waiver*EC* Section 33051(b) will apply | West Sacramento Teachers Association (WSTA)**Representative:**WSTA President Douglas KneppMay 10, 2023Position: **Support** | Public Hearing:April 27, 2023Local Board Approval: YesApril 27, 2023 | Gamut Board Policy AgendaSchool site printed announcementsWest Sacramento News Ledger | Community Council Reviewed By: River City School Site CouncilReview Date: May 16, 2023Objection: No |

Created by California Department of Education
November 2023

# Attachment 2: Washington Unified School District General Waiver Request 6-5-2023

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 5772694

Waiver Number: 6-5-2023

Active Year: 2023

Date In: 5/17/2023 11:03:09 PM

Local Education Agency: Washington Unified

Address: 930 Westacre Rd.

West Sacramento, CA 95691

Start: 6/30/2023

End: 6/27/2025

Waiver Renewal: Yes

Previous Waiver Number: 2-9-2021-W-02

Previous SBE Approval Date: 1/12/2022

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: California *Education Code* (*EC*) Section 51222(a)

Outcome Rationale: River City High School implements a 4X4 block schedule where students receive from 804 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. River City High School students only take PE for one semester; therefore, Washington Unified School District (WUSD) is seeking a waiver of *EC* Section 51222(a).

Student Population: 2130

City Type: Suburban

Public Hearing Date: 4/27/2023

Public Hearing Advertised: Gamut Board Agenda, Printed Announcements at School Sites, Publication in West Sacramento News Ledger

Local Board Approval Date: 5/11/2023

Community Council Reviewed By: River City School Site Council

Community Council Reviewed Date: 5/16/2023

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Matt Ainsworth

Position: Director of Curriculum, Instruction, and PL

E-mail: mainsworth@wusd.k12.ca.us

Telephone: 916-996-8197

Bargaining Unit Date: 05/10/2023

Name: West Sacramento Teachers Association

Representative: Douglas Knepp

Title: WSTA President

Phone: 916-202-6201

Position: Support