



CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-9

MARCH 2004 AGENDA

General Waiver

<p>SUBJECT</p> <p>Request by Manhattan Beach Unified School District to waive portions of <i>Education Code</i> (EC) Section 45272(a), to allow the district hire a substitute assistant who has been working in the district's Child Development Center, although she is not in the top three ranks.</p> <p>Waiver Number 28-12-2003</p>	<p><input checked="" type="checkbox"/> Action</p> <p><input type="checkbox"/> Consent</p>
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RECOMMENDATION

Approval Approval with conditions Denial

That this waiver applies on a one time, non-precedential basis only for the employee in question, and that EC 33051(c) will not apply.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has never before acted on any waiver request regarding local district hiring practices, however this EC Section is waivable by the SBE under EC 33050, and the rule that all general waivers are approved unless one of 7 conditions is found per (EC 33051(a)(1-7)).

SUMMARY OF KEY ISSUES

The District's request is straightforward. A temporary employee who is not in the top three places on the eligibility list is seeking a permanent position in the Child Development Center, and state law expressly prohibits such an action by the District.

The employee in question has worked as a substitute in the same position for many years, and has been adequately performing the tasks needed.

The district's Personnel Commission is in support of this waiver, and the union involved, California School Employees Association (CSEA) is in full support, and the Child Development Parent Teacher Association had no objections when it was discussed with them. The local board has also voted approval of the waiver request after a fully noticed public hearing.

The department therefore recommends approval of this waiver on very limited conditions as explained above.

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Authority for Waiver: Education Code (EC) Section 33050

Bargaining unit(s) consulted on date(s): October 29, 2003

Position of bargaining unit(s) (choose only one):

Neutral Support Oppose

Name of bargaining unit representative(s): Margie Strike and Jim Walker, CSEA

Public hearing identified by (choose one or more):

posting in a newspaper posting at each school other (specify)

Public hearing held on date(s): December 10, 2003

Local board approval date(s): December 10, 2003

Advisory committee(s) consulted: Child Development Center Parent Teacher Association (PTA)

Objections raised (choose one): None Objections are attached on separate sheet

Date(s) consulted: December 2, 2003

Period of request: 12/10/03 to 5/21/04

FISCAL ANALYSIS (AS APPROPRIATE)

This will have no fiscal impact, either locally or statewide.

BACKGROUND INFORMATION

Documentation is attached to this Summary.