

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education September 2023 Agenda Item #W-14

## Subject

Request by **Linns Valley-Poso Flat Union School District** to waive California *Education Code* Section 5020, which requires a districtwide election to reduce the number of governing board members from five to three.

## Waiver Number

16-4-2023

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Linns Valley-Poso Flat Union School District (Union) is requesting to waive California *Education Code (EC)* Section 5020, which requires that an approved resolution by a county committee on school district organization (County Committee) to decrease the size of a school district governing board from five to three members be approved by voters at a districtwide election. To expedite this reduction, the district requests that the State Board of Education (SBE) waive the requirement in *EC* Section 5020 that the reduction be approved at a districtwide election.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

## Summary of Key Issues

Under the provisions of *EC* Section 33050, the district is requesting that specific portions of the *EC* relating to holding an election for a reduction in board size be waived. Approval of this waiver request would eliminate the election requirement for approval of the reduction in the number of members (from five to three) on the Linns Valley-Poso Flat Union governing board. County Committee approval of this reduction constitutes an order of election,[[1]](#footnote-1) pursuant to *EC* Section 5020, unless this waiver is approved.

Linns Valley-Poso Flat Union is a small, rural district (18 students, 2 teachers) located in Kern County. The five-member school board (the Board) currently has two vacancies. This leaves only three members, the minimum needed for a quorum, and creates challenges in scheduling and holding meetings on a regular basis. Due to the size of the district, the Board has historically experienced difficulties in maintaining a quorum. Rather than undergo a potentially difficult recruitment for these two vacancies (the last time the Board experienced a vacancy, preceding the November 2022 election, no candidates filed for the seat), the Board has acted to reduce its size from five to three, which it believes is more appropriate for a district of less than two dozen students. This will have the added benefits of reducing costs and increasing the likelihood of maintaining a quorum for future meetings.

Due to its size, the district does not have a collective bargaining unit to consult. However, in order to ensure compliance with statute, the district met with its entire staff (5 individuals). No objections were voiced.

This reduction has already been reviewed and was unanimously approved by the County Committee on June 27, 2023, with no public objections. As previously noted, this constitutes an order of election, unless that requirement is waived by the SBE. While the waiver of *EC* section 5020 does not affect the Board’s decision to reduce the size of the governing board, it will allow the district to implement the Board’s decision without the cost or delay that accompanies an election.

The *Education Code* already envisions that small elementary school districts have a three-member board. Subdivision (c) of *EC* Section 35012 requires that an elementary school district with an average daily attendance of less than 300 have a three-member board—however, the governing board of any such district is required to take action to increase the size of the board to five members, without approval by the district’s electorate, if enrollment increases to 300 or more (*EC* Section 5018). There is no corresponding statute to allow the governing board to reduce from five to three members without an election.

The CDE has reviewed the waiver request and has determined that there was no significant opposition to the waiver at the public hearing held by the governing board or the County Committee. The CDE also has determined that none of the findings specified in *EC* Section 33051, which authorize denial of a waiver, exist. Thus, the CDE recommends the SBE approve the request by Linns Valley-Poso Flat Union, to waive *EC* Section 5020, which requires a districtwide election to approve a reduction in the size of the governing board.

**Demographic Information**The Linns Valley-Poso Flat Union School District has a student population of 18, served by a single school site, and is located in rural Kern 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 has approved similar waiver requests in the past. The most recent approval was at the May 2023 SBE meeting for Big Lagoon Union ESD (Humboldt County).

## Fiscal Analysis (as appropriate)

Approval of the waiver requests will not have fiscal effects on any local or state agency. Disapproval of the requests may result in additional election costs for the districts requesting waivers.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Linns Valley-Poso Flat Union School District General Waiver Request 16-4-2023 (2 pages). (Original waiver request is signed and on-file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* Section 5020

| **Waiver Number** | **District** | **Period of Request** | **Bargaining Unit Representatives Consulted** | **Public Hearing and Board Date** | **Advisory Committee Position** |
| --- | --- | --- | --- | --- | --- |
| 16-4-2023 | Linns Valley-Poso Flat Union School District | **Requested:**  April 1, 2023, to March 31, 2025  **Recommended:** April 1, 2023, to March 30, 2025 | District has no bargaining units | March 8, 2023 | N/A |

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# Attachment 2 Linns Valley-Poso Flat Union School District General Waiver Request 16-4-2023

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1563586

Waiver Number: 16-4-2023

Active Year: 2023

Date In: 4/26/2023 1:33:01 PM

Local Education Agency: Linns Valley-Poso Flat Union

Address: 158 White River Rd.

Glennville, CA 93226

Start: 4/1/2023

End: 3/31/2025

Waiver Renewal: No

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: School District Reorganization

Ed Code Title: Election of Governing Board

Ed Code Section: 5020

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: See attached pages 2 through 3.

Outcome Rationale: See attached pages 3 through 4.

Student Population: 18

City Type: Rural

Public Hearing Date: 3/8/2023

Public Hearing Advertised: Single school site and district website.

Local Board Approval Date: 3/8/2023

Community Council Reviewed By: See attached pages 4 through 5.

Community Council Reviewed Date: 3/8/2023

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Tammy Pritchard

Position: Superintendent

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Telephone: 661-536-8811

1. Pursuant to *EC* Section 5020, the proposal to reduce the size of the governing board must be presented to the district’s electorate no later than the “next succeeding election” for board members. [↑](#footnote-ref-1)