

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education July 2019 Agenda Item #W-12

## Subject

Request by **Whitmore Union Elementary School District** to waive California *Education Code* Section 5020 that requires a districtwide election to reduce the number of governing board members from five to three.

## Waiver Number

* 22-3-2019

## Type of Action

Action, Consent

## Summary of the Issue(s)

Pursuant to California *Education Code* (*EC*) sections 5019 and 5020, a school district may reduce the size of its governing board from five to three members if the reduction is approved by both the County Committee on School District Organization (County Committee) and voters at a districtwide election. The Whitmore Union Elementary School District (UESD), in Shasta County, is a small school district (38 students) with a five-member board. The district historically has had difficulty finding candidates for the five board seats (there currently are two vacant seats on the board) and proposed reducing the number of members to three. The Shasta County Superintendent of Schools (County Superintendent) supports this proposal and the County Committee already has approved it. To expedite this reduction and to reduce costs, the Whitmore UESD requests that the California State Board of Education (SBE) waive the requirement 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

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 Whitmore UESD governing board. The County Superintendent supports this request and the County Committee approved the reduction on March 26, 2019. County Committee approval constitutes an order of election,[[1]](#footnote-1) pursuant to *EC* Section 5020, unless this waiver is approved.

The Whitmore UESD has had ongoing difficulties maintaining a five-member board and currently is operating as a three-member board due to two vacant seats it has been unable to fill.

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 may take action to increase the size of the board to five members without approval by the district’s electorate (*EC* Section 5018). There is no corresponding statute to allow the governing board to return to three members without an election. SBE approval of the Whitmore UESD waiver request will allow the district to return to a three-member governing board with the review and approval of the County Committee.

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. 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 the Whitmore UESD to waive *EC* Section 5020, which requires a districtwide election to approve a reduction in the size of the governing board.

**Demographic Information:** The Whitmore UESD has a student population of 38[[2]](#footnote-2) and is located in a rural area of Shasta 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 November 2018 SBE meeting for the Igo, Ono, Platina UESD, also in Shasta County.

## Fiscal Analysis (as appropriate)

Approval of the waiver request will not have fiscal effects on any local or state agency. Disapproval of the request may result in election costs for Whitmore UESD.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Whitmore Union Elementary School District General Waiver Request 22-3-2019 (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** |
| --- | --- | --- | --- | --- | --- |
| 22-3-2019 | Whitmore Union Elementary School District | **Requested:** March 26, 2019, to March 26, 2024  **Recommended:** March 26, 2019, to December 31, 2020 | The Whitmore UESD has no bargaining units. | February 26, 2019 | School Site Council  March 26, 2019  **No objections** |

Created by California Department of Education  
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# Attachment 2: Whitmore Union Elementary School District General Waiver Request 22-3-2019

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 4570169

Waiver Number: 22-3-2019

Active Year: 2019

Date In: 3/29/2019 10:10:00 PM

Local Education Agency: Whitmore Union Elementary School District

Address: 30611 Whitmore Rd.

Whitmore, CA 96096

Start: 3/26/2019

End: 3/26/2024

Waiver Renewal: No

Waiver Topic: School District Reorganization

Ed Code Title: Elimination of Election Requirement

Ed Code Section: 5020

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: Ed Code or *CCR* to Waive: Waive California Ed Code Section 5020, that requires a district-wide election to reduce the number of governing board members from five to three.

Outcome Rationale: Rationale: The Board of Trustees of Whitmore Union Elementary School District seeks a waiver of Ed Code Section 5020 election requirement to expedite its effort to reduce the Board membership from 5 to 3. Whitmore is a small rural community that has historically experienced difficulties filing and maintaining its five member board. Currently the Board has 2 vacant seats and 3 members that regularly attend meetings. The Board has been unable to find a single qualified individual interested in filling the vacancies either by appointment or election. Thus, the Board has determined that it is in the best interests of its students, employees and community to reduce the Board membership to three. By granting this waiver, the District will be able to implement a three member board on an expedited basis, and therefore ensure that the Board can continue to properly fulfill its duties to the District.

Student Population: 38

City Type: Rural

Public Hearing Date: 2/26/2019

Public Hearing Advertised: The Public Hearing notice was posted at the school/district site, the post office and the general store.

Local Board Approval Date: 2/26/2019

Community Council Reviewed By: Governing Board and County Committee

Community Council Reviewed Date: 3/26/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Amy Barker

Position: Co-Op Director

E-mail: [abarker@shastacoe.org](mailto:abarker@shastacoe.org)

Telephone: 530-605-2701

Fax: 530-472-1127

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 (November 2020). [↑](#footnote-ref-1)
2. The Whitmore UESD also sponsors three charter schools with a combined 2018–19 enrollment of 914. [↑](#footnote-ref-2)