

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education September 2019 AgendaItem #W-09

## Subject

Request by **eight local educational agencies** to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a districtwide election to establish a by-trustee-area method of election.

## Waiver Numbers

* Campbell Union High School District 10-6-2019
* Hueneme Elementary School District 16-5-2019
* Jamul-Dulzura Union Elementary School District 5-7-2019
* Little Lake City Elementary School District 15-6-2019
* Moorpark Unified School District 13-5-2019
* Mt. Diablo Unified School District 3-7-2019
* South Whittier Elementary School District 18-5-2019
* Whittier Union High School District 17-5-2019

## Type of Action

Action, Consent

## Summary of the Issue(s)

School districts that elect board members at-large face existing or potential litigation under the California Voting Rights Act of 2001 (CVRA). Pursuant to the California *Education Code* (*EC*), a district can change from at-large elections to by-trustee-area elections only if the change is approved by both the County Committee on School District Organization (County Committee) and voters at a districtwide election.

To reduce the potential for litigation and to establish by-trustee-area elections as expeditiously as possible, the Campbell Union High School District (UHSD), the Hueneme Elementary School District (ESD), the Jamul-Dulzura Union ESD, the Little Lake City ESD, the Moorpark Unified School District (USD), the Mt. Diablo USD, the South Whittier ESD, and the Whittier UHSD, request that the California State Board of Education (SBE) waive the requirement that by-trustee-area election methods be approved at a districtwide election—allowing by-trustee-area elections to be adopted upon review and approval of the appropriate County Committee.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

## Summary of Key Issues

Approval of the waiver requests will eliminate the election requirement for approval of trustee areas and by-trustee-area methods of election for future governing board elections in the Campbell UHSD, the Hueneme ESD, the Jamul-Dulzura Union ESD, the Little Lake City ESD, the Moorpark USD, the Mt. Diablo USD, the South Whittier ESD, and the Whittier UHSD. The voters in the districts will continue to elect all board members—however, if the waiver requests are approved, all board members will be elected by trustee areas beginning with the next governing board elections that occur at least 120 days after County Committee approval of the by-trustee-area methods.

County Committees have the authority to approve or disapprove the adoption of trustee areas and methods of election for school district governing board elections. Pursuant to *EC* Section 5020, County Committee approval of trustee areas and election methods constitutes an order of election—thus, voters in the districts have final approval.

Many districts in California are facing existing or potential litigation under the CVRA because of their at-large election methods. To help avoid potential litigation, the Campbell UHSD, the Hueneme ESD, the Jamul-Dulzura Union ESD, the Little Lake City ESD, the Moorpark USD, the Mt. Diablo USD, the South Whittier ESD, and the Whittier UHSD are taking actions to establish trustee areas and adopt by-trustee-area election methods. In order to establish the trustee areas and the methods of election as expeditiously as possible, these districts request that the SBE waive the requirement that the trustee areas and the election methods be approved at districtwide elections. If the SBE approves the waiver requests, by-trustee-area election methods can be adopted in the districts upon review and approval of the appropriate County Committee without subsequent local elections to approve the changes.

Only the elections to establish trustee areas and the election methods will be eliminated by approval of the waiver requests—voters in the Campbell UHSD, the Hueneme ESD, the Jamul-Dulzura Union ESD, the Little Lake City ESD, the Moorpark USD, the Mt. Diablo USD, the South Whittier ESD, and the Whittier UHSD will continue to elect all governing board members. Moreover, approval of the waivers will not eliminate any existing legal rights of currently seated board members.

The waiver requests have been reviewed by the California Department of Education (CDE) and it has been determined that there was no significant public opposition to the waivers at the public hearings conducted by the governing boards of the districts. The CDE has further determined that none of the grounds specified in *EC* Section 33051, which authorize denial of a waiver, exist. The CDE recommends the SBE approve the requests by the Campbell UHSD, the Hueneme ESD, the Jamul-Dulzura Union ESD, the Little Lake City ESD, the Moorpark USD, the Mt. Diablo USD, the South Whittier ESD, and the Whittier UHSD to waive *EC* Section 5020 and portions of sections 5019, 5021, and 5030, which require districtwide elections to approve by-trustee-area methods of election.

**Demographic Information:** The Campbell UHSD has a student population of 8,271 and is located in a suburban area of Santa Clara County.

The Hueneme ESD has a student population of 8,348 and is located in an urban area of Ventura County.

The Jamul-Dulzura Union ESD has a student population of 750 and is located in a rural area of San Diego County.

The Little Lake City ESD has a student population of 4,141 and is located in a suburban area of Los Angeles County.

The Moorpark USD has a student population of 6,200 and is located in a suburban area of Ventura County.

The Mt. Diablo USD has a student population of 31,013 and is located in a suburban area of Contra Costa County.

The South Whittier ESD has a student population of 2,716 and is located in an urban area of Los Angeles County.

The Whittier UHSD has a student population of 11,411 and is located in an urban area 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* 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 180 similar waiver requests—most recently for the Conejo Valley USD and the Santa Cruz City Elementary/High School District at the July 2019 SBE meeting.

## Fiscal Analysis (as appropriate)

Approval of the waiver request will not have negative fiscal effects on any local or state agency. Failure to approve the request will result in additional costs to the Campbell UHSD, the Hueneme ESD, the Jamul-Dulzura Union ESD, the Little Lake City ESD, the Moorpark USD, the Mt. Diablo USD, the South Whittier ESD, and the Whittier UHSD for districtwide elections.

## Attachment(s)

* **Attachment 1:** Summary Table (6 pages)
* **Attachment 2:** Campbell Union High School District General Waiver Request 10-6-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Hueneme Elementary School District General Waiver Request 16-5-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 4:** Jamul-Dulzura Union `Elementary School District General Waiver Request 5-7-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 5:** Little Lake City Elementary School District General Waiver Request 15-6-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 6:** Moorpark Unified School District General Waiver Request
13-5-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 7:** Mt. Diablo Unified School District General Waiver Request
3-7-2019 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 8:** South Whittier Elementary School District General Waiver Request 18-5-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 9:** Whittier Union High School District General Waiver Request 17-5-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 10:** California *Education Code* Sections Proposed for Waiver (5 pages).

# Attachment 1: Summary Table

California *Education Code* Sections 5019, 5020, 5021, and 5030

| **Waiver Number** | **District** | **Period of Request** | **Bargaining Unit Representatives Consulted** | **Public Hearing and Board Dates** | **Advisory Committee Position** |
| --- | --- | --- | --- | --- | --- |
| 10-6-2019 | Campbell Union High School District | **Requested:**May 30, 2019,toMay 28, 2021 **Recommended:**May 30, 2019,toMay 28, 2021  | Campbell High School Teachers Association,Kim McCarthyPresident6/20/2019**Support** Service Employees International Union,Earl MoodyPresident6/19/2019**Support** California School Employees Association,Renee ErenoPresident6/18/2019**Support** | May 30, 2019 | Measure AA Citizens' Oversight Committee (6/18/2019**)No objections** |
| 16-5-2019 | Hueneme Elementary School District | **Requested:**May 23, 2019,toMay 21, 2021 **Recommended:**May 23, 2019,toMay 21, 2021 | Hueneme Educators Association,Rosa GranadoPresident3/25/2019**Support**California School Employees Association,Cinthya Perez President3/25/2019**Support** | April 22, 2019 | District English Learner Advisory Committee (03/20/2019); Parent Teacher Associations and School Site Councils (3/25/2019)**No objections** |
| 5-7-2019 | Jamul-Dulzura Union Elementary School District | **Requested:**September 1, 2019,toAugust 31, 2021 **Recommended:**June 18, 2019,toJune 16, 2021 | Jamul-Dulzura United Teachers Association,Diane HulbertPresident6/10/2019**Neutral**California School Employees Association,Robert MacLarenLocal Representative6/10/2019**Neutral** | June 18, 2019 | All school site councils and the District's English Learner Advisory Committee (6/10/2019)**No objections** |
| 15-6-2019 | Little Lake City Elementary School District | **Requested:**January 1, 2020,toDecember 31, 2020 **Recommended:**June 11, 2019,toDecember 31, 2020  | Little Lake Education Association,Jennifer ConfortiPresident6/11/2019**Support**California School Employees Association,Maria GonzalezPresident6/11/2019**Support** | June 25, 2019 | School Site Councils and District English Language Advisory Committee(6/5/2019)**No objections** |
| 13-5-2019 | Moorpark Unified School District | **Requested:**March 12, 2019,toMarch 21, 2021**Recommended:**March 12, 2019,toMarch 10, 2021 | Moorpark Educators Association,Brian FriefeldPresident3/12/2019**Support**California School Employees Association,Fox BeamPresident4/1/2019**Support** | March 12, 2019 | English Language Advisory Committee (2/28/2019)**No objections** |
| 3-7-2019 | Mt. Diablo Unified School District | **Requested:**December 1, 2019,toNovember 30, 2020**Recommended:**June 24, 2019,toNovember 30, 2020 | Mt. Diablo Education Association,Anita JohnsonPresident6/21/2019**Neutral**California School Employees Association,David SanfordLabor Relations Representative6/11/2019**Neutral**Mt. Diablo School Psychologist Association,Silvia VenturinoPresident6/10/2019**Neutral**Public Employees Union,Lisa DavisBusiness Agent6/13/2019**Neutral**Teamsters,Juan EscobarBusiness Agent6/11/2019**Neutral** | June 24, 2019 | District English Learners Advisory Council, Community Advisory Committee(6/12/2019)**No objections** |
| 18-5-2019 | South Whittier Elementary School District | **Requested:**May 21, 2019,toMay 20, 2021**Recommended:**May 21, 2019,toMay 19, 2021 | South Whittier Teachers Association,Audrey RadleyPresident4/24/2019**Support**South Whittier California State Employees Association,Stephani GonzalesPresident4/26/2019**Neutral** | May 21, 2019 | District Advisory Committee / District English Learner Advisory Committee (5/6/2019)**No objections** |
| 17-5-2019 | Whittier Union High School District | **Requested:**January 1, 2020,toDecember 31, 2021**Recommended:**August 1, 2019,toJuly 30, 2021 | Whittier Area Teachers Association,Pamela BattlesonPresident4/9/2019**Support** Whittier Secondary Education Association,Alex McKenziePresident4/9/2019**Support** Classified School Employees Association,Art SiegristPresident4/9/2019**Support**  | May 14, 2019 | School Site Councils and District English Learner Advisory Council(4/9/2019)**No objections** |

Created by California Department of Education
July 2019

# Attachment 2: Campbell Union High School District General Waiver Request 10-6-2019

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 4369401

Waiver Number: 10-6-2019

Active Year: 2019

Date In: 6/24/2019 11:08:32 AM

Local Education Agency: Campbell Union High School District

Address: 3235 Union Ave.

San Jose, CA 95124

Start: 5/30/2019

End: 5/28/2021

Waiver Renewal: No

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: School District Reorganization

Ed Code Title: Elimination of Election Requirement

Ed Code Section: 5019, 5020, 5021, 5030

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: See Attachment 10

Outcome Rationale: The Campbell Union High School District Board of Trustees is transitioning from at-large elections to trustee area method of elections. The CUHSD Board requests the State Board of Education waive the voter approval requirement in order to avoid the high election cost and to expedite the timeline for implementation to trustee area elections.

Student Population: 8271

City Type: Suburban

Public Hearing Date: 5/30/2019

Public Hearing Advertised: Public notice in local newspaper, posted all school sites, District Office, website, community newsletter

Local Board Approval Date: 5/30/2019

Community Council Reviewed By: Measure AA Citizens' Oversight Committee

Community Council Reviewed Date: 6/18/2019

Community Council Objection: No

Community Council Objection Explanation: Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Dr. Robert Bravo

Position: Superintendent

E-mail: rbravo@cuhsd.org

Telephone: 408-371-0960

Fax: 408-558-3006

Bargaining Unit Date: 06/18/2019
Name: California School Employees Association (CSEA)
Representative: Renee Ereno
Title: President (Chapter 266)
Position: Support
Comments:

Bargaining Unit Date: 06/20/2019
Name: Campbell High School Teachers Association (CHSTA)
Representative: Kim McCarthy
Title: President
Position: Support
Comments:

Bargaining Unit Date: 06/19/2019
Name: Service Employees International Union (SEIU)
Representative: Earl Moody
Title: President (Local 521)
Position: Support
Comments:

# Attachment 3: Hueneme Elementary School District General Waiver Request 16-5-2019

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 5672462

Waiver Number: 16-5-2019

Active Year: 2019

Date In: 5/23/2019 5:31:48 PM

Local Education Agency: Hueneme Elementary School District

Address: 205 North Ventura Rd.

Port Hueneme, CA 93041

Start: 5/23/2019

End: 5/21/2021

Waiver Renewal: No

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: School District Reorganization

Ed Code Title: Elimination of Election Requirement

Ed Code Section: 5020 and portions of 5019, 5021, and 5030

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: See Attachment 10

Outcome Rationale: The Hueneme Elementary School District desires to have the requested *Education Code* sections waived because the waiver of these sections will allow the district to successfully adopt trustee areas and establish a by-trustee area election process as expeditiously as possible and avoid the risk and expense associated with litigation under the California Voting Rights Act. If approved, this waiver would allow the district to complete the transition process to a by-trustee area election method without delay. It is imperative that this waiver be approved because the district’s failure to successfully adopt and implement trustee areas and a by-trustee area election process leaves the district vulnerable to litigation in which the district would be exposed to potentially having to pay significant attorneys’ fees to the plaintiffs, which would pose an undue hardship and extreme detriment to the district and its students.

Student Population: 8348

City Type: Urban

Public Hearing Date: 4/22/2019

Public Hearing Advertised: Formal notice with date, time, location, and subject posted at the District Office and each school site and published on the District website

Local Board Approval Date: 4/22/2019

Community Council Reviewed By: District English Learner Advisory Committee (03/20/19) & PTA's and School Site Councils (03/25/19

Community Council Reviewed Date: 3/20/2019

Community Council Objection: N

Community Council Objection Explanation: Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Nitasha Sawhney

Position: Attorney

E-mail: nsawhney@ghslaw.com

Telephone: 510-695-2802

Fax:

Bargaining Unit Date: 03/25/2019
Name: CSEA, HUENEME CHAPTER # 273
Representative: Cinthya Perez
Title: President
Position: Support
Comments:

Bargaining Unit Date: 03/25/2019
Name: Hueneme Educators Association
Representative: Rosa Granado
Title: President
Position: Support

# Attachment 4: Jamul-Dulzura Union Elementary School District General Waiver Request 5-7-2019

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 3768155

Waiver Number: 5-7-2019

Active Year: 2019

Date In: 7/5/2019 10:00:34 AM

Local Education Agency: Jamul-Dulzura Union Elementary

Address: 14581 Lyons Valley Rd.

Jamul, CA 91935

Start: 9/1/2019

End: 8/31/2021

Waiver Renewal: No

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: School District Reorganization

Ed Code Title: Elimination of Election Requirement

Ed Code Section: 5019, 5020, 5021, and 5030

Ed Code Authority: 33050-33053

*Education Code* or *CCR* to Waive: See Attachment 10

Outcome Rationale: The Jamul-Dulzura Union School District desires to have the requested *Education Code* sections waived because the waiver of these sections will allow the District to successfully adopt trustee areas and establish a by-trustee election process as expeditiously as possible, thereby enabling the District to avoid litigation resulting out of its current at-large election process for electing its board members.

The District currently utilizes an at-large election process to elect its governing board members. The District’s failure to successfully adopt and implement trustee areas and a by-trustee area election process leaves it vulnerable to litigation in which the District would be exposed to potentially having to pay significant attorneys’ fees to plaintiffs, which would pose an undue hardship and extreme detriment to the District and its students. Normally, under *Education Code* section 5020, the County Committee on School District organization, after conducting its own public hearing on the recommended plans, would call for an election and put the matter to a vote of the District’s electors. However, going through an election process would prevent the District from electing successor trustees in a timely manner and leaves the District vulnerable to a lawsuit and injunction. The requested waiver will allow the District to complete its transition to a by-trustee area election process in time to for the next governing board member election in November 2020 which will reduce the District’s liability under the CVRA going forward.

Student Population: 750

City Type: Rural

Public Hearing Date: 6/18/2019

Public Hearing Advertised: Public Hearing Notice was posted at all three school sites in the District, on a community board outside the District Office, at the Jamul post office, and at the Jamul Market.

Local Board Approval Date: 6/18/2019

Community Council Reviewed By: All school site councils, and the District's English Learner Advisory Committee (DELAC)

Community Council Reviewed Date: 6/10/2019

Community Council Objection: No

Community Council Objection Explanation: Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Cheryl Stewart

Position: Administrative Assistant to Superintendent/Human R

E-mail: cstewart@jdusd.org
Telephone: 619-669-7705

Bargaining Unit Date: 06/10/2019

Name: California School Employees Association, No. 664
Representative: Robert MacLaren
Title: local representative
Position: Neutral
Comments:

Bargaining Unit Date: 06/10/2019
Name: Jamul-Dulzura United Teachers Association (JDUTA)
Representative: Diane Hulbert
Title: President
Position: Neutral
Comments:

# Attachment 5: Little Lake City Elementary School District General Waiver Request 15-6-2019

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 1964717

Waiver Number: 15-6-2019

Active Year: 2019

Date In: 6/28/2019 10:53:49 AM

Local Education Agency: Little Lake City Elementary

Address: 10515 South Pioneer Blvd.

Santa Fe Springs, CA 90670

Start: 1/1/2020

End: 12/31/2020

Waiver Renewal: No

Waiver Topic: School District Reorganization

Ed Code Title: Elimination of Election Requirement

Ed Code Section: Portions of 5019, 5021, 5030 and all of 5020

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: See Attachment 10

Outcome Rationale: The Little Lake City School District desires to have the requested *Education Code* sections waived because the waiver of these sections will allow the District to successfully adopt trustee areas and establish a by-trustee election process as expeditiously as possible, thereby enabling the District to avoid litigation resulting out of its current at-large election process for electing its governing board members.

It is imperative that the District adopt these areas and establish this process without delay and without interference because the District has been presented with a demand letter under the California Voting Rights Act of 2001 (“CVRA”), threatening to sue the District if it does not convert to by-trustee area elections. The District currently utilizes an at-large election process to elect its governing board members. The District’s failure to successfully adopt and implement trustee areas and a by-trustee area election process leaves it vulnerable to litigation in which the District would be exposed to potentially having to pay significant attorneys’ fees to plaintiffs, which would pose an undue hardship and extreme detriment to the District and its students. Normally, under *Education Code* section 5020, the County Committee on School District organization, after conducting its own public hearing on the recommended plans, would call for an election and put the matter to a vote of the District’s electors. However, going through an election process would prevent the District from electing successor trustees in a timely manner and leaves the District vulnerable to a lawsuit and injunction.

The requested waiver will allow the District to complete its transition to a by-trustee area election process in time to for the next governing board member election which will reduce the District’s liability under the CVRA going forward.

Student Population: 4141

City Type: Suburban

Public Hearing Date: 6/25/2019

Public Hearing Advertised: Publication in the local newspaper, posted at every school site and District Office. In addition, it was posted in three public places.

Local Board Approval Date: 6/25/2019

Community Council Reviewed By: School Site Councils and DELAC

Community Council Reviewed Date: 6/5/2019

Community Council Objection: No

Community Council Objection Explanation: Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Manuel Correa

Position: Assistant Superintendent, Business Services

E-mail: mcorrea@llcsd.net

Telephone: 562-868-8241 x2248

Bargaining Unit Date: 06/11/2019
Name: California School Employees Association
Representative: Maria Gonzalez
Title: President
Position: Support
Comments:

Bargaining Unit Date: 06/11/2019
Name: Little Lake Education Association
Representative: Jennifer Conforti
Title: President
Position: Support
Comments:

# Attachment 6: Moorpark Unified School DistrictGeneral Waiver Request 13-5-2019

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 5673940

Waiver Number: 13-5-2019

Active Year: 2019

Date In: 5/20/2019 2:26:56 PM

Local Education Agency: Moorpark Unified School District

Address: 5297 Maureen Ln.

Moorpark, CA 93021

Start: 3/12/2019

End: 3/21/2021

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: School District Reorganization

Ed Code Title: Elimination of Election Requirement

Ed Code Section: 5020 and portions of sections 5019, 5021, 5030

Ed Code Authority: *EC* Section 33050

*Education Code* or *CCR* to Waive: See Attachment 10

Outcome Rationale: The Moorpark Unified School District desires to have the requested *Education Code* sections waived because the waiver of these sections will allow the district to successfully adopt trustee areas and establish a by-trustee area election process as expeditiously as possible and avoid the risk and expense associated with litigation under the California Voting Rights Act. If approved, this waiver would allow the district to complete the transition process to a by-trustee area election method without delay. It is imperative that this waiver be approved because the district’s failure to successfully adopt and implement trustee areas and a by-trustee area election process leaves the district vulnerable to litigation in which the district would be exposed to potentially having to pay significant attorneys’ fees to the plaintiffs, which would pose an undue hardship and extreme detriment to the district and its students.

Student Population: 6200

City Type: Suburban

Public Hearing Date: 3/12/2019

Public Hearing Advertised: Formal notice with date, time, location, and subject posted at the District Office and each school site on 03/08/19; published on district website 03/08/2019

Local Board Approval Date: 3/12/2019

Community Council Reviewed By: None/Not Applicable ??

Community Council Reviewed Date: 3/12/2019

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Dr. Kelli Hays

Position: Superintendent

E-mail: khays@mrpk.org
Telephone: 805-378-6300 x1700

Fax:

Bargaining Unit Date: 04/01/2019
Name: California School Employees Association #498
Representative: Fox Beam
Title: President
Position: Support
Comments:

Bargaining Unit Date: 03/12/2019
Name: Moorpark Educators Association
Representative: Brian Friefeld
Title: President
Position: Support

Comments:

# Attachment 7: Mt. Diablo Unified School District General Waiver Request 3-7-2019

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 0761754

Waiver Number: 3-7-2019

Active Year: 2019

Date In: 7/3/2019 3:59:09 PM

Local Education Agency: Mt. Diablo Unified School District

Address: 1936 Carlotta Dr.

Concord, CA 94519

Start: 12/1/2019

End: 11/30/2020

Waiver Renewal: No

Waiver Topic: School District Reorganization

Ed Code Title: Elimination of Election and Effective Date for Reorg

Ed Code Section: 5019, 5020, 5021, 5030

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: See Attachment 10

Outcome Rationale: Desired Outcome/ Rationale: The Mt. Diablo Unified School District requests a waiver of *Education Code* sections or portions thereof because the waiver of these sections will allow the District to adopt trustee areas and establish a by-trustee election process as expeditiously as possible, thereby enabling the District to avoid threatened litigation resulting out of its current at-large election process for electing its governing board members.

It is imperative that the District adopt these trustee areas and establish this election process without delay and without interference because the District has been presented with a demand letter under the California Voting Rights Act of 2001 (“CVRA”), threatening to sue the District if it does not convert to by-trustee area elections. The District currently utilizes an at-large election process to elect its governing board members. The District’s failure to adopt and implement trustee areas and a by-trustee area election process leaves it vulnerable to litigation. Such litigation to which the District is exposed could cause it to pay significant attorneys’ fees to plaintiffs. This would pose an undue hardship and extreme detriment to the District and its students.

Normally, under *Education Code* section 5020, the County Committee on School District organization, after conducting its own public hearing on the recommended plans, would call for an election and put the matter to a vote of the District’s electors. However, going through an election process would prevent the District from electing successor trustees in a timely manner at the next regular election in November 2020 and leave the District vulnerable to a lawsuit and injunction.

The requested waiver will allow the District to complete its transition to a by-trustee area election process in time to for the next governing board member election in November 2020 which will reduce the District’s liability under the CVRA going forward.

Student Population: 31013

City Type: Suburban

Public Hearing Date: 6/24/2019

Public Hearing Advertised: Publication and email distribution to all school sites and local municipalities

Local Board Approval Date: 6/24/2019

Community Council Reviewed By: District English Learners Advisory Council, Community Advisory Committee

Community Council Reviewed Date: 6/12/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Lawrence Schoenke

Position: Attorney for Mt. Diablo USD

E-mail: lschoenke@aalrr.com
Telephone: 925-605-9698

Fax: 925-680-2505

Bargaining Unit Date: 06/11/2019
Name: California School Employees Assn., Chap. 43
Representative: David Sanford
Title: Labor Relations Representative
Position: Neutral
Comments:

Bargaining Unit Date: 06/21/2019
Name: Mt. Diablo Education Association
Representative: Anita Johnson
Title: President
Position: Neutral
Comments:

Bargaining Unit Date: 06/10/2019
Name: Mt. Diablo School Psychologist Association
Representative: Silvia Venturino
Title: President
Position: Neutral

Bargaining Unit Date: 06/13/2019
Name: Public Employees Union, Local One
Representative: Lisa Davis
Title: Business Agent
Position: Neutral

Bargaining Unit Date: 06/11/2019
Name: Teamsters Local No. 856
Representative: Juan Escobar
Title: Business Agent
Position: Neutral

# Attachment 8: South Whittier Elementary School District General Waiver Request 18-5-2019

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1965037

Waiver Number: 18-5-2019

Active Year: 2019

Date In: 5/28/2019 10:04:02 AM

Local Education Agency: South Whittier Elementary School District

Address: 11200 Telechron Ave.

Whittier, CA 90605

Start: 5/21/2019

End: 5/20/2021

Waiver Renewal: No

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: School District Reorganization

Ed Code Title: Elimination of Election Requirement

Ed Code Section: 5020 and portions of 5019, 5021 and 5030

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: See Attachment 10

Outcome Rationale: This waiver is requested to expedite the efforts of the South Whittier School District (“District”) to ensure compliance with the California Voting Rights Act (Elections Code section 14025 et seq.)(“CVRA”). By granting this waiver, the District will be able to implement its new “by-trustee area” election system for its November 2020 elections to reduce any potential liability under the CVRA. Due to the fact that the CVRA grants a prevailing plaintiff the right to reasonable attorneys’ and expert witness fees, the District seeks to reduce the risk of costly litigation under the CVRA. By reducing the risk of such costly litigation in an expeditious and cost-efficient manner, the District will be able to ensure that cuts to necessary and valuable District student programs are not needed because of claims being brought under the CVRA.

Student Population: 2716

City Type: Urban

Public Hearing Date: 5/21/2019

Public Hearing Advertised: Newspaper, internet, and District office

Local Board Approval Date: 5/21/2019

Community Council Reviewed By: District Advisory Committee (DAC)/District English Learner Advisory Committee (DELAC)

Community Council Reviewed Date: 5/6/2019

Community Council Objection: No

Community Council Objection Explanation: Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Mark Keriakous

Position: Associate Superintendent, Business Services

E-mail: mkeriakous@swhittier.net

Telephone: 562-944-6231 x2031

Bargaining Unit Date: 04/26/2019
Name: S. Whittier California State Employees Association
Representative: Stephani Gonzales
Title: President
Position: Neutral
Comments:

Bargaining Unit Date: 04/24/2019
Name: South Whittier Teachers Association
Representative: Audrey Radley
Title: President
Position: Support

Comments:

# Attachment 9: Whittier Union High School District General Waiver Request 17-5-2019

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1965128

Waiver Number: 17-5-2019

Active Year: 2019

Date In: 5/24/2019 10:55:56 AM

Local Education Agency: Whittier Union High School District

Address: 9401 South Painter Ave.

Whittier, CA 90605

Start: 1/1/2020

End: 12/31/2021

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: School District Reorganization

Ed Code Title: Elimination of Election Requirement

Ed Code Section: 5019, 5021, 5030, 5020

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: See Attachment 10

Outcome Rationale: On or about September 6, 2018 the District received a letter from the law firm of Carlos R. Perez, demanding that the District switch to the by-trustee area elections methodology.

The requested waiver will allow the District to complete its transition to a by-trustee area election process in time for the next governing board member election which will reduce the District’s potential liability under the CVRA going forward.

Student Population: 11411

City Type: Urban

Public Hearing Date: 5/14/2019

Public Hearing Advertised: Notice in newspaper, notice posted at each school

Local Board Approval Date: 5/14/2019

Community Council Reviewed By: School Site Councils and District English Learner Advisory Council

Community Council Reviewed Date: 4/9/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Martin Plourde

Position: Superintendent

E-mail: martin.plourde@wuhsd.org

Telephone: 562-698-8121 x1000

Fax: 562-907-6977

Bargaining Unit Date: 04/09/2019
Name: Classified School Employees Association
Representative: Art Siegrist
Title: President of CSEA
Position: Support
Comments:

Bargaining Unit Date: 04/09/2019
Name: Whittier Area Teachers Association
Representative: Pamela Battleson
Title: President of WATA
Position: Support
Comments:

Bargaining Unit Date: 04/09/2019
Name: Whittier Secondary Education Association
Representative: Alex McKenzie
Title: President of WSEA
Position: Support

# Attachment 10: California *Education Code* Sections Proposed for Waiver

Request to waive California Education Code Section 5020, and portions of sections 5019, 5021, and 5030, that require a districtwide election to establish by-trustee-area method of election. Language proposed to be waived is bracketed and in italics below:

## § 5019.

**Trustee areas and size of school district governing boards; powers of county committee; proposal and hearing**

(a) Except in a school district governed by a board of education provided for in the charter of a city or city and county, in any school district or community college district, the county committee on school district organization may establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or adopt one of the alternative methods of electing governing board members specified in Section 5030.

(b) The county committee on school district organization may establish or abolish a common governing board for a high school district and an elementary school district within the boundaries of the high school district. The resolution of the county committee on school district organization approving the establishment or abolition of a common governing board shall be presented to the electors of the school districts as specified in Section 5020.

(c) (1) A proposal to make the changes described in subdivision (a) or (b) may be initiated by the county committee on school district organization or made to the county committee on school district organization either by a petition signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters, by 3 percent or 100, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 to 10,000 qualified registered voters, by 1 percent or 250, whichever is less, of the qualified registered voters residing in a district in which there are 10,001 to 50,000 qualified registered voters, by 500 or more of the qualified registered voters residing in a district in which there are 50,001 to 100,000 qualified registered voters, by 750 or more of the qualified registered voters residing in a district in which there are 100,001 to 250,000 qualified registered voters, or by 1,000 or more of the qualified registered voters residing in a district in which there are 250,001 or more qualified registered voters or by resolution of the governing board of the district. For this purpose, the necessary signatures for a petition shall be obtained within a period of 180 days before the submission of the petition to the county committee on school district organization and the number of qualified registered voters in the district shall be determined pursuant to the most recent report submitted by the county elections official to the Secretary of State under Section 2187 of the Elections Code.

(2) When a proposal is made pursuant to paragraph (1), the county committee on school district organization shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee on school district organization shall approve or disapprove the proposal.

(d) If the county committee on school district organization approves pursuant to subdivision (a) [*the rearrangement of* ]the boundaries of trustee areas for a particular district, then the [*rearrangement of the* ]trustee areas shall be effectuated for the next district election occurring at least 120 days after [its ]approval*[, unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. The petition for an election shall be submitted to the county elections official within 60 days of the proposal's adoption by the county committee on school district organization. If the qualified registered voters approve pursuant to subdivision (b) or (c) the rearrangement of the boundaries to the trustee areas for a particular district, the rearrangement of the trustee areas shall be effective for the next district election occurring at least 120 days after its approval by the voters*].

##  *[§ 5020.*

***Presentation of proposal to electors***

*(a) The resolution of the county committee approving a proposal to establish or abolish trustee areas, to adopt one of the alternative methods of electing governing board members specified in Section 5030, or to increase or decrease the number of members of the governing board shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board.*

*(b) If a petition requesting an election on a proposal to rearrange trustee area boundaries is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.*

*(c) If a petition requesting an election on a proposal to establish or abolish trustee areas, to increase or decrease the number of members of the board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030 is filed, containing at least 10 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. Before the proposal is presented to the electors, the county committee on school district organization may call and conduct one or more public hearings on the proposal.*

*(d) The resolution of the county committee approving a proposal to establish or abolish a common governing board for a high school and an elementary school district within the boundaries of the high school district shall constitute an order of election. The proposal shall be presented to the electors of the district at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.*

*(e) For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:*

*"For the establishment (or abolition or rearrangement) of trustee areas in \_\_\_\_ (insert name) School District --Yes" and "For the establishment (or abolition or rearrangement) of trustee areas in \_\_\_\_ (insert name) School District--No."*

*"For increasing the number of members of the governing board of \_\_\_\_ (insert name) School District from five to seven--Yes" and "For increasing the number of members of the governing board of \_\_\_\_ (insert name) School District from five to seven--No."*

*"For decreasing the number of members of the governing board of \_\_\_\_ (insert name) School District from seven to five--Yes" and "For decreasing the number of members of the governing board of \_\_\_\_ (insert name) School District from seven to five--No."*

*"For the election of each member of the governing board of the \_\_\_\_ (insert name) School District by the registered voters of the entire \_\_\_\_ (insert name) School District--Yes" and "For the election of each member of the governing board of the \_\_\_\_ (insert name) School District by the registered voters of the entire \_\_\_\_ (insert name) School District--No."*

*"For the election of one member of the governing board of the \_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--Yes" and "For the election of one member of the governing board of the \_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--No."*

*"For the election of one member, or more than one member for one or more trustee areas, of the governing board of the \_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters of the entire \_\_\_\_ (insert name) School District--Yes" and "For the election of one member, or more than one member for one or more trustee areas, of the governing board of the \_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters of the entire \_\_\_\_ (insert name) School District--No."*

*"For the establishment (or abolition) of a common governing board in the \_\_\_\_ (insert name) School District and the \_\_\_\_ (insert name) School District--Yes" and "For the establishment (or abolition) of a common governing board in the \_\_\_\_ (insert name) School District and the \_\_\_\_ (insert name) School District--No."*

*If more than one proposal appears on the ballot, all must carry in order for any to become effective, except that a proposal to adopt one of the methods of election of board members specified in Section 5030 which is approved by the voters shall become effective unless a proposal which is inconsistent with that proposal has been approved by a greater number of voters. An inconsistent proposal approved by a lesser number of voters than the number which have approved a proposal to adopt one of the methods of election of board members specified in Section 5030 shall not be effective*.]

## § 5021.

**Incumbents to serve out terms despite approval of change**

(a) If a proposal for the establishment of trustee areas formulated under Section[*s*] 5019 [*and 5020* ]is approved[ *by a majority of the voters voting at the election*], any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030. In the event two or more trustee areas are established [*at such election* ]which are not represented in the membership of the governing board of the school district, or community college district the county committee shall determine by lot the trustee area from which the nomination and election for the next vacancy on the governing board shall be made.

(b) If a proposal for rearrangement of boundaries is approved by[ *a majority of the voters voting on the measure, or by*] the county committee on school district organization[ *when no election is required*], and if the boundary changes affect the board membership, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030.

(c) If a proposal for abolishing trustee areas is approved*[ by a majority of the voters voting at the election*], the incumbent board members shall serve out their terms of office and succeeding board members shall be nominated and elected at large from the district.

## § 5030.

**Alternate method of election**

Except as provided in Sections 5027 and 5028, in any school district or community college district having trustee areas, the county committee on school district organization and the registered voters of a district, pursuant to Section[*s*] 5019[ *and 5020, respectively*], may at any time recommend one of the following alternate methods of electing governing board members:

(a) That each member of the governing board be elected by the registered voters of the entire district.

(b) That one or more members residing in each trustee area be elected by the registered voters of that particular trustee area.

(c) That each governing board member be elected by the registered voters of the entire school district or community college district, but reside in the trustee area which he or she represents.

The recommendation shall provide that any affected incumbent member shall serve out his or her term of office and that succeeding board members shall be nominated and elected in accordance with the method recommended by the county committee.

Whenever trustee areas are established in a district, provision shall be made for one of the alternative methods of electing governing board members.

[*In counties with a population of less than 25,000,* ]the county committee on school district organization or the county board of education, if it has succeeded to the duties of the county committee, may at any time, by resolution, with respect to trustee areas established for any school district, other than a community college district, amend the provision required by this section without additional approval by the electors, to require one of the alternate methods for electing board members to be utilized.