

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education January 2020 AgendaItem #W-01

## 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 Number

* Campbell Union School District 3-10-2019
* Coalinga-Huron Unified School District 6-9-2019
* East Whittier City Elementary School District 2-10-2019
* Hollister School District 13-10-2019
* Los Nietos School District 8-10-2019
* Santa Paula Unified School District 7-10-2019
* Vallecitos Elementary School District 3-9-2019
* Valley Center-Pauma Unified School District 13-9-2019

## 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 School District (SD), the Coalinga-Huron Unified School District (USD), the East Whittier City Elementary School District (ESD), the Hollister SD, the Los Nietos SD, the Santa Paula USD, the Vallecitos ESD, and the Valley Center-Pauma USD, 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 election methods 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 Union SD, the Coalinga-Huron USD, the East Whittier City ESD, the Hollister SD, the Los Nietos SD, the Santa Paula USD, the Vallecitos ESD, and the Valley Center-Pauma USD. Voters in the districts will continue to elect all board members—however, if the waiver requests are approved, board members will be elected by trustee areas beginning with the next governing board election that occurs at least 120 days after County Committee approval of the election method.

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 Union SD, the Coalinga-Huron USD, the East Whittier City ESD, the Hollister SD, the Los Nietos SD, the Santa Paula USD, the Vallecitos ESD, and the Valley Center-Pauma USD, 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 districts 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 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 Union SD, the Coalinga-Huron USD, the East Whittier City ESD, the Hollister SD, the Los Nietos SD, the Santa Paula USD, the Vallecitos ESD, and the Valley Center-Pauma USD 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 Union SD has a student population of 7,001 and is located in a suburban area of Santa Clara County.

The Coalinga-Huron USD has a student population of 4,466 and is located in a rural area of Fresno County.

The East Whittier City ESD has a student population of 8,568 and is located in a suburban area of Los Angeles County.

The Hollister SD has a student population of 5,660 and is located in a suburban area of San Benito County.

The Los Nietos SD has a student population of 1,500 and is located in an urban area of Los Angeles County.

The Santa Paula USD has a student population of 5,028 and is located in a rural area of Ventura County.

The Vallecitos ESD has a student population of 223 and is located in a rural area of San Diego County.

The Valley Center-Pauma USD has a student population of 3,952 and is located in a rural area of San Diego 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 194 similar waiver requests—most recently for six school districts at the November 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 Union SD, the Coalinga-Huron USD, the East Whittier City ESD, the Hollister SD, the Los Nietos SD, the Santa Paula USD, the Vallecitos ESD, and the Valley Center-Pauma USD for districtwide elections.

## Attachment(s)

* **Attachment 1:** Summary Table (4 pages)
* **Attachment 2:** Campbell Union School District General Waiver Request
3-10-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Coalinga-Huron Unified School District General Waiver Request 6-9-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 4:** East Whittier City Elementary School District General Waiver Request 2-10-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 5:** Hollister School District General Waiver Request
13-10-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 6:** Los Nietos School District General Waiver Request 8-10-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 7:** Santa Paula Unified School District General Waiver Request 7-10-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 8:** Vallecitos Elementary School District General Waiver Request
3-9-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 9:** Valley Center-Pauma Unified School District General Waiver Request 13-9-2019 (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 Approval Dates** | **Advisory Committee Position** |
| --- | --- | --- | --- | --- | --- |
| 3-10-2019 | Campbell Union School District | **Requested:**October 3, 2019,toOctober 2, 2021**Recommended:**October 3, 2019,toOctober 1, 2021 | Campbell Elementary Teacher Association,Catherine Hodge, President10/3/2019**Support** California School Employees Association,Cedric Germany, President10/7/2019**Support** | October 3, 2019 | Faculty Senate (10/2/2019)**No objections** |
| 6-9-2019 | Coalinga-Huron Unified School District | **Requested:**June 18, 2019,toJune 16, 2021**Recommended:**June 18, 2019,toJune 16, 2021 | Coalinga-Huron Unified Teachers Association,Tom Wells, President5/8/2019**Support**California School Employees Association,Chris Ayers, President5/13/2019**Support** | Public Hearing:June 11, 2019Board Approval: June 18, 2019 | District English Language Advisory Committee (9/9/2019)**No objections** |
| 2-10-2019 | East Whittier City Elementary School District | **Requested:**October 1, 2019,toDecember 31, 2020**Recommended:**October 1, 2019,toDecember 31, 2020 | East Whittier Education Association,Kelly Sunada, President9/17/2019**Neutral**California School Employees Association,Ivan Pastrano, President9/17/2019**Neutral** | September 23, 2019 | School site councils and the District English Learner Advisory Committee (9/12/2019)**No objections** |
| 13-10-2019 | Hollister School District | **Requested:**November 1, 2019,toDecember 31, 2020**Recommended:**November 1, 2019,toDecember 31, 2020 | Hollister Elementary Teacher's Association,Angela Hagins, President10/15/2019**Support**California School Employees Association,Josefina Garcia-Silva, President10/15/2019**Support** | October 22, 2019 | School site councils and the District English Learner Advisory Committee (10/15/2019)**No objections** |
| 8-10-2019 | Los Nietos School District | **Requested:**October 1, 2019,toDecember 31, 2020**Recommended:**October 1, 2019,toDecember 31, 2020 | Los Nietos Teacher Association,Erika Rose, President10/4/2019**Support**California School Employees Association,Jose Martin Duran, President10/1/2019**Neutral** | October 9, 2019 | School Site Councils, Parent Teacher Clubs, and More Advocates for Safe Homes Senior Group (9/25/2019)**No objections** |
| 7-10-2019 | Santa Paula Unified School District | **Requested:**November 1, 2019,toDecember 31, 2020**Recommended:**November 1, 2019,toDecember 31, 2020 | Santa Paula Federation of Teachers,Todd McWherter, President9/11/2019**Support**California School Employees Association,Ilda Sanchez, President10/4/2019**Support** | October 9, 2019 | School site councils and the District Advisory Committees (9/11/2019)**No objections** |
| 3-9-2019 | Vallecitos Elementary School District | **Requested:**August 13, 2019,toAugust 11, 2021**Recommended:**August 13, 2019,toAugust 11, 2021 | Vallecitos Educators Association,Sarah Kirk, President4/11/2019**Support**This district does not have a bargaining unit for classified employees. | August 13, 2019 | School site councils and the District English Learner Advisory Committee (4/2/2019)**No objections** |
| 13-9-2019 | Valley Center-Pauma Unified School District | **Requested:**July 1, 2019,toJune 30, 2020**Recommended:**July 1, 2019,toJune 30, 2020 | Valley Center-Pauma Teachers Association,Susie Knoll, President10/9/2019**Support**California School Employees Association,Diane Faber, President9/30/2019**Support** | Public Hearing:June 20, 2019Board Approval:October 10, 2019 | District English Learner Advisory Committee (10/8/2019)**No objections** |

Created by California Department of Education
November 2019

# Attachment 2Campbell Union School DistrictGeneral Waiver Request 3-10-2019

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 4369393

Waiver Number: 3-10-2019

Active Year: 2019

Date In: 10/8/2019 11:27:09 AM

Local Education Agency: Campbell Union School District

Address: 155 North Third St.

Campbell, CA 95008

Start: 10/3/2019

End: 10/2/2021

Waiver Renewal: No

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 School District (CUSD) Board of Trustees is transitioning from at-large elections to trustee area method of elections. The CUSD 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: 7001

City Type: Suburban

Public Hearing Date: 10/3/2019

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

Local Board Approval Date: 10/3/2019

Community Council Reviewed By: Faculty Senate

Community Council Reviewed Date: 10/2/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Dr. Shelly Viramontez

Position: Superintendent

E-mail: sviramontez@campbellusd.org

Telephone: 408-341-7211

Bargaining Unit Date: 10/07/2019
Name: California School Employees Association (CSEA) Cha
Representative: Cedric Germany
Title: President
Position: Support
Comments:

Bargaining Unit Date: 10/03/2019
Name: Campbell Elementary Teacher Association (CETA)
Representative: Catherine Hodge
Title: President
Position: Support
Comments:

# Attachment 3Coalinga-Huron Unified School DistrictGeneral Waiver Request 6-9-2019

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 1062125

Waiver Number: 6-9-2019

Active Year: 2019

Date In: 9/10/2019 8:22:58 AM

Local Education Agency: Coalinga-Huron Unified School District

Address: 657 Sunset St.

Coalinga, CA 93210

Start: 6/18/2019

End: 6/16/2021

Waiver Renewal: No

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 Coalinga-Huron Unified 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 next election occurring at least 120 days after approval. 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: 4466

City Type: Rural

Public Hearing Date: 6/11/2019

Public Hearing Advertised: Newspaper, website, and notices were posted at all school sites and administrative buildings.

Local Board Approval Date: 6/18/2019

Community Council Reviewed By: District English Language Advisory Committee

Community Council Reviewed Date: 9/9/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Lori Villanueva

Position: Superintendent

E-mail: lvillanueva@chusd.org

Telephone: 559-935-7507

Fax: 559-935-5601

Bargaining Unit Date: 05/08/2019
Name: CHUTA
Representative: Tom Wells
Title: President
Position: Support
Comments:

# Attachment 4East Whittier City Elementary School DistrictGeneral Waiver Request 2-10-2019

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 1964485

Waiver Number: 2-10-2019

Active Year: 2019

Date In: 10/1/2019 12:28:34 PM

Local Education Agency: East Whittier City Elementary

Address: 14535 Whittier Blvd.

Whittier, CA 90605

Start: 10/1/2019

End: 12/31/2020

Waiver Renewal: No

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 East Whittier 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 to enable the District to avoid litigation under the California Voting Rights Act of 2001 (“CVRA”). 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.

Student Population: 8568

City Type: Suburban

Public Hearing Date: 9/23/2019

Public Hearing Advertised: Posted at all school sites, ran an ad in local news paper, 3 public places and the District

Local Board Approval Date: 9/23/2019

Community Council Reviewed By: DELAC, SSC

Community Council Reviewed Date: 9/12/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Ruben Hernandez

Position: Assistant Superintendent - Business

E-mail: rhernandez@ewcsd.org

Telephone: 562-907-5915

Fax: 562-698-6573

Bargaining Unit Date: 09/17/2019
Name: CSEA (Chapter #87)
Representative: Ivan Pastrano
Title: President
Position: Neutral
Comments:

Bargaining Unit Date: 09/17/2019
Name: eWEa
Representative: Kelly Sunada
Title: President
Position: Neutral
Comments

# Attachment 5Hollister School DistrictGeneral Waiver Request 13-10-2019

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 3567470

Waiver Number: 13-10-2019

Active Year: 2019

Date In: 10/29/2019 6:22:57 PM

Local Education Agency: Hollister Unified School District

Address: 2690 Cienega Rd.

Hollister, CA 95023

Start: 11/1/2019

End: 12/31/2020

Waiver Renewal: No

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 Hollister 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.

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.

Student Population: 5660

City Type: Suburban

Public Hearing Date: 10/22/2019

Public Hearing Advertised: The public hearing was advertised in local newspaper, posted at every school site in the district, posted in three public places in the district, posted on the district's website, and social media.

Local Board Approval Date: 10/22/2019

Community Council Reviewed By: DELAC and School Site Councils for all sites.

Community Council Reviewed Date: 10/15/2019

Community Council Objection: No

Community Council Objection Explanation: The SSC for Calaveras wishes to keep at-large voting in place.Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Diego Ochoa

Position: Superintendent

E-mail: diego.ochoa@hesd.org

Telephone: 831-444-1115

Fax: 831-630-2080

Bargaining Unit Date: 10/15/2019
Name: Classified School Employee's Association #625
Representative: Josefina Garcia-Silva
Title: President (CSEA)
Position: Support
Comments:

Bargaining Unit Date: 10/15/2019
Name: Hollister Elementary Teacher's Association
Representative: Angela Hagins
Title: President (HESTA)
Position: Support

Comments:

# Attachment 6Los Nietos School DistrictGeneral Waiver Request 8-10-2019

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 1964758

Waiver Number: 8-10-2019

Active Year: 2019

Date In: 10/21/2019 12:29:17 PM

Local Education Agency: Los Nietos School District

Address: 8324 South Westman Ave.

Whittier, CA 90606

Start: 10/1/2019

End: 12/31/2020

Waiver Renewal: No

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 Los Nietos 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 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.

Student Population: 1500

City Type: Urban

Public Hearing Date: 10/9/2019

Public Hearing Advertised: Publication in newspaper, posted at every school site, and at 3 public places and the district.

Local Board Approval Date: 10/9/2019

Community Council Reviewed By: school site councils, Parent Teacher Clubs, and More Advocates for Safe Homes (MASH) Senior Group

Community Council Reviewed Date: 9/25/2019

Community Council Objection: No

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

Categorical Program Monitoring: No

Submitted by: Mr. Jonathan Vasquez

Position: Superintendent

E-mail: jonathan\_vasquez@lnsd.net

Telephone: 562-692-0271 x3212

Fax: 562-692-0082

Bargaining Unit Date: 10/01/2019
Name: CSEA Chapter 380
Representative: Jose Martin Duran
Title: CSEA Chapter 380 President
Position: Neutral
Comments:

Bargaining Unit Date: 10/04/2019
Name: Los Nietos Teacher Association
Representative: Erika Rose
Title: LNTA President
Position: Support
Comments:

# Attachment 7Santa Paula Unified School DistrictGeneral Waiver Request 7-10-2019

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 5676828

Waiver Number: 7-10-2019

Active Year: 2019

Date In: 10/15/2019 10:58:34 AM

Local Education Agency: Santa Paula Unified School District

Address: 201 South Steckel Dr.

Santa Paula, CA 93060

Start: 11/1/2019

End: 12/31/2020

Waiver Renewal: No

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 Santa Paula 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 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 to enable the District to avoid litigation under the California Voting Rights Act of 2001 (“CVRA”). 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.

Student Population: 5028

City Type: Rural

Public Hearing Date: 10/9/2019

Public Hearing Advertised: In newspaper, posted at each school site, three public places, and social media

Local Board Approval Date: 10/9/2019

Community Council Reviewed By: School Site Councils and District Advisory Committees

Community Council Reviewed Date: 9/11/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Dr. Ed Cora

Position: Superintendent

E-mail: ecora@santapaulaunified.org

Telephone: 805-933-8802

Fax: 805-933-8026

Bargaining Unit Date: 09/11/2019
Name: SPFT
Representative: Todd McWherter
Title: President
Position: Support
Comments:

# Attachment 8Vallecitos Elementary School DistrictGeneral Waiver Request 3-9-2019

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 3768437

Waiver Number: 3-9-2019

Active Year: 2019

Date In: 9/3/2019 2:21:27 PM

Local Education Agency: Vallecitos Elementary School District

Address: 5211 Fifth St.

Rainbow, CA 92028

Start: 8/13/2019

End: 8/11/2021

Waiver Renewal: No

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 Vallecitos 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: 223

City Type: Rural

Public Hearing Date: 8/13/2019

Public Hearing Advertised: Newspaper, internet, and District office

Local Board Approval Date: 8/13/2019

Community Council Reviewed By: School Site Council, Elac/Delac

Community Council Reviewed Date: 4/2/2019

Community Council Objection: N
Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Linda Miller

Position: CBO

E-mail: lmiller@vallecitossd.net

Telephone: 760-728-7092 x230

Fax:

Bargaining Unit Date: 04/11/2019
Name: VEA Vallecitos Educators Association
Representative: Sarah Kirk
Title: Union President
Position: Support
Comments:

# Attachment 9Valley Center-Pauma Unified School DistrictGeneral Waiver Request 13-9-2019

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 3775614

Waiver Number: 13-9-2019

Active Year: 2019

Date In: 9/25/2019 1:38:35 PM

Local Education Agency: Valley Center-Pauma Unified School District

Address: 28751 Cole Grade Rd.

Valley Center, CA 92082

Start: 7/1/2019

End: 6/30/2020

Waiver Renewal: No

Waiver Topic: School District Reorganization

Ed Code Title: Elimination of Election Requirement

Ed Code Section: 5019, 5020, 5030

Ed Code Authority: 33050

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

Outcome Rationale: Valley Center-Pauma Unified School District Board of Trustees is transitioning from at-large elections to trustee area method of elections. Valley Center-Pauma Unified School District 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: 3952

City Type: Rural

Public Hearing Date: 9/11/2019

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

Local Board Approval Date: 6/20/2019

Community Council Reviewed By: See attachment

Community Council Reviewed Date: 9/11/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Daniel Shinoff

Position: Counsel to Valley Center

E-mail: Dshinoff@as7law.com

Telephone: 619-232-3264

# Attachment 10California *Education Code* SectionsProposed 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.