

California Department of Education  
Executive Office  
SBE-005 (REV. 11/2017)  
General Waiver

# California State Board of Education January 2018 Agenda Item #W-10

## Subject

Request by **Laytonville Unified School District** to waive portions of California *Education Code* Section 5091, which will allow the board of trustees to make a provisional appointment to a vacant board position past the 60-day statutory deadline.

## Waiver Number

6-11-2017

## Type of Action

Action, Consent

## Summary of the Issue(s)

California *Education Code* (*EC*) Section 5091 requires a governing board to make a provisional appointment or order an election to fill a vacancy on the board within 60 days of the vacancy. *EC* Section 5091 further requires the county superintendent of schools (county superintendent) to order an election to fill the vacancy if the board does not take action within the 60 days. Approval of this waiver request removes the 60-day limit and provides the Laytonville Unified School District (USD) additional time to make an appointment.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

## Summary of Key Issues

*EC* Section 5091 provides that a school district governing board make a provisional appointment or order an election to fill a vacancy on the board within 60 days of a vacancy. *EC* Section 5091 further provides that, if the governing board fails to take such action, the county superintendent must order an election to fill the vacancy. Approval of this waiver request would remove the 60-day limit, allowing the Laytonville USD additional time to make a provisional appointment.

A member of the Laytonville USD governing board resigned on August 10, 2017. District staff actively recruited for the position, posting the vacancy in five public places within district boundaries and in the local newspaper. However, the district did not receive any valid applicants within the 60-day timeline. The Mendocino County Superintendent (with current responsibility for calling the election for the board vacancy) supports the district’s waiver request. The CDE notes that calling an election when no qualified candidates currently have expressed interest in being appointed to the board is not the best option at this time.

Given the above circumstances, the lack of local opposition to the waiver request, and the CDE’s determination that none of the reasons for denial in *EC* Section 33051(a) exist, the CDE recommends that the SBE approve the request by the Laytonville USD to waive portions of *EC* Section 5091, which require a governing board to take action to fill a vacancy on the board within 60 days

**Demographic Information:** The Laytonville USD has a student population of 376 and is located in a rural area of Mendocino County.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a), available at** <http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051>.

## Summary of Previous State Board of Education Discussion and Action

The SBE has approved similar waiver requests. The most recent approval was at the November 2017 SBE meeting for the Oak Run Elementary School District (Shasta County).

## Fiscal Analysis (as appropriate)

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

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Laytonville Unified School District General Waiver Request  
  6-11-2017 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* Section 5091

| Waiver Number | District | Period of Request | Bargaining Unit Representatives Consulted, Date and Position | Public Hearing and Board Approval Date | Public Hearing Advertisement | SSC/Advisory Committee Position |
| --- | --- | --- | --- | --- | --- | --- |
| 6-11-2017 | Laytonville Unified School District | **Requested:** October 9, 2017, to June 30, 2018  **Recommended:** October 9, 2017, to June 30, 2018 | California Teachers Association, Suzanne Dunham, President 11/1/2017  **Support**  California School Employees Association, Nancy Golightly, Vice-President 11/2/2017 **Support** | 11/3/2017 | The public hearing notice was posted at the local post office as well as each school site and the tribal office. | Laytonville High School Site Council,  11/2/2017  **No objections** |

Created by California Department of Education  
November 2017

# Attachment 2: Laytonville Unified School District General Waiver Request

**California Department of Education  
WAIVER SUBMISSION - General**

CD Code: 2373916  
Waiver Number: 6-11-2017  
Active Year: 2017

Date In: 11/6/2017 12:27:08 PM

Local Education Agency: Laytonville Unified School District  
Address: 150 Ramsey Rd. Laytonville, CA 95454

Start: 10/9/2017  
End: 6/30/2018

Waiver Renewal: No  
Previous Waiver Number: None  
Previous SBE Approval Date: N/A

Waiver Topic: School District Reorganization  
Ed Code Title: 60 day Requirement to Fill Board Vacancy   
Ed Code Section: 5091-92  
Ed Code Authority: 33051

Ed Code or CCR to Waive: Portions of California Education Code Section 5091 Recommended for Waiver

5091. (a) (1) Whenever a vacancy occurs, or whenever a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board shall[, within 60 days of the vacancy or the filing of the deferred resignation,] either order an election or make a provisional appointment to fill the vacancy. A governing board member may not defer the effective date of his or her resignation for more than 60 days after he or she files the resignation with the county superintendent of schools.

(2) In the event that a governing board fails to make a provisional appointment or order an election[ within the prescribed 60-day period] as required by this section, the county superintendent of schools shall order an election to fill the vacancy.

(b) When an election is ordered, it shall be held on the next established election date provided pursuant to Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code not less than 130 days after the order of the election.

(c) (1) If a provisional appointment is made[ within the 60-day period], the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the number of registered voters of the district equal to 11/2 percent of the number of registered voters of the district at the time of the last regular election for governing board members, or 25 registered voters, whichever is greater. However, in districts with less than 2,000 registered voters, a petition shall be deemed to bear a sufficient number of signatures if signed by at least 5 percent of the number of registered voters of the district at the time of the last regular election for governing board members.

Portions recommended for waiver are bracketed.

Outcome Rationale: Laytonville Unified School District Board Member resigned from the Board of Trustees on August 10, 2017. The Board voted to appoint a new member at the September 7, 2017 meeting. The Laytonville Unified School District staff have actively recruited for the position. We posted the vacancy in five public places within the District and in the local newspaper. Unfortunately, the district had not received any valid applicants within the 60 day deadline. The district is requesting more time to continue the search and appoint a new interested Board Member.

Student Population: 376

City Type: Rural

Public Hearing Date: 11/3/2017  
Public Hearing Advertised: The Notice of Public Hearing was posted at the local Post Office as well as each school site and the tribal office.

Local Board Approval Date: 11/3/2017

Community Council Reviewed By: Laytonville High School Site Council  
Community Council Reviewed Date: 11/2/2017  
Community Council Objection: No  
Community Council Objection Explanation: None

Audit Penalty: No

Categorical Program Monitoring: No

Submitted by: Ms. Joan Potter  
Position: Superintendent  
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Bargaining Unit Date: 11/02/2017  
Name: California School Employee's Association  
Representative: Nancy Golightly  
Title: Vice President  
Position: Support  
Comments: None

Bargaining Unit Date: 11/01/2017  
Name: California Teacher's Association  
Representative: Suzanne Dunham  
Title: President  
Position: Support