

California Department of Education

Executive Office

SBE-005 (REV. 11/2017)

General Waiver

# California State Board of Education July 2018 Agenda Item #W-11

## Subject

Request by **Igo, Ono, Platina Union Elementary 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

27-3-2018

## 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. State Board of Education (SBE) approval of this waiver request removes the 60-day time limit and provides the Igo, Ono, Platina Union Elementary School District (UESD) 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 time limit, allowing the Igo, Ono, Platina UESD additional time to make a provisional appointment.[[1]](#footnote-1)

A vacancy on the Igo, Ono, Platina UESD governing board occurred on January 3, 2018. District staff have actively recruited for the position, but did not receive any qualified applicants within the 60-day timeline.

The Shasta County Superintendent is aware of the difficulties that school districts in small rural communities have recruiting and retaining school board members. She supports the efforts of the district to continue recruitment of qualified candidates. Because of difficulties in finding community members interested in serving on the governing board, the Igo, Ono, Platina UESD intends to move toward reducing the size of its board from five to three members.

The California Department of Education (CDE) also 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 Igo, Ono, Platina UESD 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 Igo, Ono, Platina UESD has a student population of 42 and is located in a rural area of Shasta County.

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

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

The SBE has approved similar waiver requests in the past. The most recent approval was at the May 2018 SBE meeting for the Happy Camp UESD (Siskiyou County). The SBE also approved an identical waiver request from the Igo, Ono, Platina UESD at the November 2015 SBE meeting.

## 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 Igo, Ono, Platina UESD.

## Attachment(s)

* **Attachment 1**: Summary Table (1 page).
* **Attachment 2**: Igo, Ono, Platina Union Elementary School District Waiver Request 27-3-2018 (2 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** | **Public Hearing and Board Date** | **Advisory Committee Position** |
| --- | --- | --- | --- | --- | --- |
| **27-3-2018** | Igo, Ono, Platina Union Elementary School District | **Requested:**  March 12, 2018, to July 31, 2018  **Recommended:** March 12, 2018, to July 31, 2018 | California Teachers Association,  Cindy Silva  Representative  2/28/2018  **Support**  California School Employees Association,  Tony Williams  President  2/28/2018  **Support** | 3/12/2018 | School Site Council  2/28/2018  **No objections** |

Created by California Department of Education  
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# Attachment 2: Igo, Ono, Platina Union Elementary School District Waiver Request 27-3-2018

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 4570029

Waiver Number: 27-3-2018

Active Year: 2018

Date In: 3/20/2018 1:44:14 PM

Local Education Agency: Igo, Ono, Platina Union Elementary School

Address: 6429 Placer St.

Igo, CA 96047

Start: 3/12/2018

End: 7/31/2018

Waiver Renewal: No

Waiver Topic: School District Reorganization

Ed Code Title: 60 day Requirement to Fill Board Vacancy

Ed Code Section: 5091

Ed Code Authority: 33050-33053

*Education Code* or *CCR* to Waive: 5091(a)

(1) If a vacancy occurs, or if 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.]

Outcome Rationale: With the number of enrolled students, it is very difficult to find someone who resides in the Igo-Ono area who would like to be on the Board. We have discussed trying to become a three Board Member Board.

Student Population: 42

City Type: Rural

Public Hearing Date: 3/12/2018

Public Hearing Advertised: Posted at Igo-Ono School, the District Office and at the local post office

Local Board Approval Date: 3/12/2018

Community Council Reviewed By: Site Council

Community Council Reviewed Date: 2/28/2018

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Lori Carter

Position: Administrative Assistant to the Superintendent

E-mail: [lcarter@rsdnmp.org](mailto:lcarter@rsdnmp.org)

Telephone: 530-225-0011 x1170

Bargaining Unit Date: 02/28/2018

Name: California Teachers Association

Representative: Cindy Silva

Title: Teacher Representative

Position: Support

1. The end date of the period of request for the Igo, Ono, Platina UESD governing board’s waiver request is listed as July 31, 2018. There is no reason for the waiver to extend beyond that date since the next regularly scheduled election of the governing board will be in November 2018—*EC* Section 5093(a) prohibits the governing board from making an appointment within the four-month period prior to that election date. [↑](#footnote-ref-1)