

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education July 2020 Agenda Item #W-09

## Subject

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

## Waiver Number

10-4-2020

## Type of Action

Action, Consent

## Summary of the Issue(s)

Pursuant to California *Education Code* (*EC*) sections 5019 and 5020, a school district may reduce the size of its governing board from five to three members if the reduction is approved by both the County Committee on School District Organization (County Committee) and voters at a districtwide election. The Pond Union Elementary School District (UESD), in Kern County, is a small school district (154 students) with a five-member board. Given its small size, the governing board believes that reducing the number of board members will decrease district expenses and help streamline operations. There only will be three active members on the governing board by the November 2020 election due to the recent death of one member and the announced resignation of a second. The Kern County Committee already has approved the district’s request to move to a three-member board. To expedite this reduction and to reduce costs, the Pond UESD requests that the California State Board of Education (SBE) waive the requirement that the reduction also be approved at a districtwide election.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

## Summary of Key Issues

Approval of this waiver request would eliminate the election requirement for approval of the reduction in the number of members (from five to three) on the Pond UESD governing board. The Kern County Committee took action to approve the reduction on April 23, 2020. The County Committee approval constitutes an order of election,[[1]](#footnote-1) pursuant to *EC* Section 5020, unless this waiver is approved.

The Pond UESD will have only three active members on its governing board by the time the next governing board election is conducted (November 2020) due to the recent death of one member and the announced intention of a second board member to resign prior to the election. To streamline costs and operations, the Pond UESD governing board has taken the necessary steps to reduce the number of trustees from five to three. The change would save the district in excess of $40,000 annually in board member health insurance costs alone.

As noted above, the Kern County Committee already has approved the district’s proposal to reduce the size of the governing board from five to three members. If the SBE approves the district’s waiver request, this reduction will be implemented in the most cost-effective and efficient manner by eliminating costs for an additional election and allowing the smaller board size to be in place for the November 2020 election.

The *Education Code* already envisions that small elementary school districts have a three-member board. Subdivision (c) of *EC* Section 35012 requires that an elementary school district with an average daily attendance of less than 300 have a three-member board—however, the governing board of any such district is required to take action to increase the size of the board to five members, without approval by the district’s electorate, if enrollment increases to 300 or more (*EC* Section 5018). There is no corresponding statute to allow the governing board to return to three members without an election. SBE approval of the Pond UESD waiver request will allow the district to return to a three-member governing board with the review and approval of the County Committee.

The CDE has reviewed the waiver request and has determined that there was no significant opposition to the waiver at the public hearing held by the governing board. The CDE also has determined that none of the findings specified in *EC* Section 33051, which authorize denial of a waiver, exist. Thus, the CDE recommends the SBE approve the request by the Pond UESD to waive *EC* Section 5020, which requires a districtwide election to approve a reduction in the size of the governing board.

**Demographic Information:** The Pond UESD has a student population of 154 and is located in a rural area of Kern 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 July 2019 SBE meeting for the Whitmore UESD (Shasta County).

## Fiscal Analysis (as appropriate)

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

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Pond Union Elementary School District General Waiver Request 10-4-2020 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* Section 5020

| **Waiver Number** | **District** | **Period of Request** | **Bargaining Unit Representatives Consulted** | **Public Hearing and Board Date** | **Advisory Committee Position** |
| --- | --- | --- | --- | --- | --- |
| 10-4-2020 | Pond Union Elementary School District | **Requested:** May 1, 2020, to  April 30, 2022  **Recommended:** May 1, 2020, to  April 29, 2022 | The Pond UESD has no bargaining units. However, all employee groups were consulted and **support** the waiver request. | April 14, 2020 | District English Language Advisory Committee (3/25/2020); School Site Council (4/14/2020)  **No objections** |

Created by California Department of Education  
May 2020

# Attachment 2 Pond Union Elementary School District General Waiver Request 10-4-2020

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1563719

Waiver Number: 10-4-2020

Active Year: 2020

Date In: 4/24/2020 4:45:59 PM

Local Education Agency: Pond Union Elementary

Address: 29585 Pond Rd.

Wasco, CA 93280

Start: 5/1/2020

End: 4/30/2022

Waiver Renewal: No

Waiver Topic: School District Reorganization

Ed Code Title: Elimination of Election Requirement

Ed Code Section: 5020

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: *Education Code* Section 5020

Outcome Rationale: Pond Union School District (“District”) is a one-school district located in rural Kern County. In 2018-19, the average student daily attendance in the District was less than 300. The District has experienced a steady decline in enrollment such that the average daily attendance for 2019-20 is approximately 154 students.

The Board of Trustees consists of five members elected at large. There is currently one vacancy due to the recent death of trustee Jim Regan. Normally, the vacant seat would be filled by a provisional appointment until the November 2020 governing board elections. However, the District believes that it is in its best interest to reduce the size of the Board and does not plan to fill the vacancy.

Trustees are entitled to District-paid health and welfare benefits, at a total cost of approximately $102,000, which cost increases annually.

Trustees Don Ludy and Eugene Ince were each elected to the Board in 2016 for four-year terms which will expire in 2020 and will be up for election on November 3, 2020. Trustees Jeff Rogers and Carmen Lara were each elected to the Board in 2018 for four-year terms which will expire in 2022. Trustee Rogers has expressed an intention to resign from the Board prior to the November 2020 election.

To reduce costs and streamline its operations, the Board is interested in reducing the number of trustees from five to three. The change would save the District in excess of $40,000 per year based on current insurance rates. The Education Code permits the Kern County Committee on School District Organization to approve a decrease in the number of school board trustees from five to three in school districts with average student daily attendance of less than 300 in the preceding year. (Education Code Section 5019).

On April 14, 2020, after publicizing a hearing notice in English and Spanish, the Board of Trustees held a public hearing on the question of decreasing the number of trustees and the decision to seek a waiver of the election requirement. The District also consulted stakeholder groups, including representatives of its school site council, DELAC and certificated and classified employee groups, all of whom were in favor of the proposal. On April 14, 2020, the Board of Trustees adopted Resolution No. 0401-1920 (uploaded with application), requesting a reduction in board size from five to three in time for the November 2020 governing Board election.

On April 22, 2020, the County Committee, through its designees, held a public hearing at Pond School, after posting a public hearing notice in English and Spanish. The request to reduce the number of governing board members from five to three effective for the November 2020 governing board election was unanimously approved by the County Committee at a public meeting held on April 23, 2020.

In the normal course, the County Committee’s approval of a change in the size of the board from five to three members would act as an order of election, submitting the change to the District’s voters at the November 2020 election. That would, however, preclude the District from implementing the change in time for that election. Accordingly the District consulted with its advisory committees, school site councils, and employee groups, held a duly-noticed public hearing on April 14, 2020, and adopted Resolution No. 0402-1920 authorizing submission of an application to the State Board of Education for waiver of the requirement that the change from the current five-member governing board to a three-member governing board be placed on the ballot in the November 2020 election (copies of public hearing notice and resolution uploaded with application.

Waiver of the election requirement noted above will enable the District to proceed to implement the change from the current five-member governing board to a three-member governing board for its November 2020 elections and will ensure that the District proceeds in the most efficient and cost-effective manner. If the waiver is approved, the Board will consist of three members, with two seats up for election in November 2020, and one seat up for election in November 2022 pursuant to the resolution adopted by the Governing Board and the approval of the County Committee.

Student Population: 154

City Type: Rural

Public Hearing Date: 4/14/2020

Public Hearing Advertised: Single school site, district website, in the community, and the DelanoNow newspaper.

Local Board Approval Date: 4/14/2020

Community Council Reviewed By: SSC on 04/14/20 and DELAC on 03/25/20

Community Council Reviewed Date: 3/25/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Alex Lopez

Position: Superintendent/Principal

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1. Pursuant to *EC* Section 5020, the proposal to reduce the size of the governing board must be presented to the district’s electorate no later than the “next succeeding election” for board members (November 2020). [↑](#footnote-ref-1)