

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education May 2023 AgendaItem #W-05

## Subject

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

## Waiver Number

8-1-2023

## Type of Action

Action, Consent

## Summary of the Issue(s)

California *Education Code* (*EC*) Section 5020 requires that an approved resolution by a county committee on school district organization (County Committee) to decrease the size of a school district governing board from five to three members be approved by voters at a districtwide election. To expedite this reduction, the district requests that the California State Board of Education (SBE) waive the requirement in *EC* Section 5020 that the reduction 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 Big Lagoon Union Elementary School District (ESD) governing board. The County Committee approval will constitute an order of election,[[1]](#footnote-1) pursuant to *EC* Section 5020, unless this waiver is approved.

The Big Lagoon Union ESD is a small school district (14 students) with a five-member board (the Board) in a rural area of Humboldt County. Currently, the Board consists of two community members as well as two interim members appointed by the Humboldt County Office of Education pursuant to *EC* 5094. The district has made efforts to recruit additional board members via their website, a marquee on the school’s signage, and public announcements during board meetings and at community events such as school concerts. These efforts have not produced sufficient interest and are complicated by the fact that the majority of district students (12 of 14) live outside of the district’s boundaries, making their caregivers ineligible to sit on the Board since they are not district residents.

Due to the difficulties in recruiting and maintaining a full five-member board in a district of this size, the Board has acted to reduce their size from five to three. This reduction has already been reviewed and was unanimously approved by the County Committee on March 21. As noted above, this constitutes an order of election, unless that requirement is waived by the SBE. While the waiver of *EC* section 5020 does not affect the Board’s decision to reduce the size of the governing board, it will allow the district to implement the Board’s decision without the cost or delay that accompanies an 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 reduce from five to three members without an election.

The California Department of Education (CDE) has reviewed the waiver request and has determined that there was no significant opposition to the waiver at the public hearings held by the governing board or the County Committee. 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 Big Lagoon Union ESD to waive *EC* Section 5020, which requires a districtwide election to approve a reduction in the size of the governing board.

**Demographic Information:** The Big Lagoon Union ESD has a student population of 14, served by a single transitional kindergarten through grade eight (TK-8) school, and is located 26 miles north of Eureka, California, in a rural area of Humboldt 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 March 2022 SBE meeting for Westside ESD (Fresno 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 additional election costs for the Big Lagoon Union ESD.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Big Lagoon Union Elementary School District General Waiver Request 8-1-2023 (2 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** |
| --- | --- | --- | --- | --- | --- |
| 8-1-2023 | Big Lagoon Union Elementary School District | **Requested:** February 1, 2023, to November 30, 2023**Recommended:** February 1, 2023, to November 30, 2023 | The Teachers Association of Big Lagoon CTA/NEA Rebecca Lawrence, Teacher Representative12/5/2022**Neutral** | January 17, 2023 | School Site Council 12/6/2022**No objections** |

Created by California Department of Education
May 2023

# Attachment 2Big Lagoon Union Elementary School DistrictGeneral Waiver Request 8-1-2023

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1262695

Waiver Number: 8-1-2023

Active Year: 2023

Date In: 1/23/2023 10:16:42 AM

Local Education Agency: Big Lagoon Union Elementary

Address: 269 Big Lagoon Park Rd.

Trinidad, CA 95570

Start: 2/1/2023

End: 11/30/2023

Waiver Renewal: No

Waiver Topic: School District Reorganization

Ed Code Title: Size of Governing Board

Ed Code Section: 5020

Ed Code Authority: 33050

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

Outcome Rationale: Big Lagoon Union Elementary School District is requesting a waiver of the requirement to conduct an election in order to effectuate a reduction from five to three members of the governing board, as the district’s average daily attendance during the preceding year was less than 300.

Student Population: 14

City Type: Rural

Public Hearing Date: 1/17/2023

Public Hearing Advertised: Notice posted December 22, 2022

Local Board Approval Date: 1/17/2023

Community Council Reviewed By: Certificated Bargaining Unit

Community Council Reviewed Date: 12/16/2022

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Dr. Rosie Slentz

Position: Interim Superintendent

E-mail: admin@biglagoon.org

Telephone: 707-677-3688

Bargaining Unit Date: 12/05/2022
Name: The Teachers Association of Big Lagoon CTA/NEA
Representative: Rebecca Lawrence
Title: Teacher Representative
Phone: (707) 951-7124
Position: Neutral

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. [↑](#footnote-ref-1)