

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of EducationMarch 2022 AgendaItem #W-06

## Subject

Request by **Westside 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

6-11-2021

## 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 Westside Elementary School District (ESD), in Fresno County, is a small school district (167 students) with a five-member board. The district historically has had difficulty finding candidates for the five board seats (there are two vacant seats on the board at present) and has submitted a proposal to the Fresno County Committee to reduce the number of members to three—this proposal has not yet been considered by the County Committee. To expedite this reduction, the Westside ESD requests that the California State Board of Education (SBE) waive the requirement that the reduction be approved at a districtwide election, thus allowing the reduction to go into effect upon approval by the County Committee.

## 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 Westside 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 Westside ESD has only three active members on its governing board due to declining permanent resident population resulting in too few people interested in serving on the board. An incomplete board creates difficulties in scheduling board meetings and attaining a quorum, which hinders the school board’s ability to conduct the business of the district. To address this issue, the Westside ESD governing board has taken the necessary steps to reduce the number of trustees from five to three.

As noted previously, the Fresno County Committee has not yet 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 expedient and cost-effective manner by eliminating an additional 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.[[2]](#footnote-2) SBE approval of the Westside ESD waiver request will allow the district to be reduced 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 Westside 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 Westside ESD has a student population of 167 and is located in a rural area of Fresno 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 2020 SBE meeting for the Pond Union ESD (Fresno 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 Westside ESD.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Westside Elementary School District General Waiver Request 6-11-2021 (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** |
| --- | --- | --- | --- | --- | --- |
| **6-11-2021** | Westside Elementary School District | **Requested:**November 23, 2021, to December 31, 2022**Recommended:**January 1, 2022, to December 30, 2023 | Westside Teachers Association/California Teachers Association,Stephen Borba, President07/17/2021**Support** California School Employees Assocation, Chapter 330,Dolores Ramirez, Vice President06/09/2021**Support** | July 21, 2021 | District English Learners Advisory Committee (5/12/2021)**No objections** |

Created by California Department of Education
January 2022

# Attachment 2Westside Elementary School DistrictGeneral Waiver Request 6-11-2021

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 1062547

Waiver Number: 6-11-2021

Active Year: 2021

Date In: 11/23/2021 2:59:24 PM

Local Education Agency: Westside Elementary

Address: 19191 Excelsior Ave.

Five Points, CA 93624

Start: 11/23/2021

End: 12/31/2022

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Other Waivers

Ed Code Title: Other Waivers

Ed Code Section: Waiver of 5020, call for election; 5019(a)(2) is authority for board seat reduction

Ed Code Authority: 33050

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

Outcome Rationale: Being agriculturally based, the communities served by the District have experienced significant negative changes in economic opportunities and infrastructure (i.e., water) with a severe decline in the number of permanent residents and thus enrolled students. There is also a continuing resulting difficulty filling all five (5) board seats, as indicated in the attached Board resolution. This creates difficulties in scheduling and conducting Board meetings to address the District's business and poses a risk of not having a sufficient Board composition to further the District's mission and operations.

Student Population: 254

City Type: Rural

Public Hearing Date: 7/21/2021

Public Hearing Advertised: Regional newspaper and District Agenda Locations

Local Board Approval Date: 7/21/2021

Community Council Reviewed By: DELAC Committee

Community Council Reviewed Date: 5/12/2021

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Mr. Bryan Martin

Position: Attorney

E-mail: bmartin@aalrr.com

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Fax:

Bargaining Unit Date: 06/09/2021

Name: California School Employees Assocation Ch. 330

Representative: Dolores Ramirez

Title: Vice-President

Phone: 559-884-2492

Position: Support

Comments:

Bargaining Unit Date: 07/16/2021

Name: Westside Teachers Association/CTA

Representative: Stephen Borba

Title: President

Phone: 559-884-2492

Position: Support

Comments:

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)
2. The district reports that it has 167 students currently enrolled; it has not had enrollment over 300 since 2003–04. The district also has authorized two direct-funded charter schools with combined kindergarten through twelfth grade enrollment of over 3,300. [↑](#footnote-ref-2)