



# California State Board of Education

## March 2019 Agenda

### Item #W-08

### Subject

Request by **San Ramon Valley Unified School District** to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a districtwide election to establish a by-trustee-area method of election.

### Waiver Number

5-1-2019

### Type of Action

Action, Consent

### Summary of the Issue(s)

School districts that elect board members at-large face existing or potential litigation under the California Voting Rights Act of 2001 (CVRA). Pursuant to the California *Education Code (EC)*, a district can change from at-large elections to by-trustee-area elections only if the change is approved by both the County Committee on School District Organization (County Committee) and voters at a districtwide election.

To reduce the potential for litigation and to establish by-trustee-area elections as expeditiously as possible, the San Ramon Valley Unified School District (USD), requests that the California State Board of Education (SBE) waive the requirement that by-trustee-area election methods be approved at a districtwide election—allowing by-trustee-area elections to be adopted upon review and approval of the Contra Costa County Committee.

### Authority for Waiver

*EC* Section 33050

## Recommendation

- Approval: Yes
- Approval with conditions: No
- Denial: No

## Summary of Key Issues

Approval of the waiver request would eliminate the election requirement for approval of trustee areas and a by-trustee-area method of election for future governing board elections in the San Ramon Valley USD. The voters in the district will continue to elect all board members—however, if the waiver request is approved, all board members will be elected by trustee areas beginning with the next governing board election that occurs at least 120 days after County Committee approval of the by-trustee-area method.

County Committees have the authority to approve or disapprove the adoption of trustee areas and methods of election for school district governing board elections. Pursuant to *EC* Section 5020, County Committee approval of trustee areas and election methods constitutes an order of election; thus, voters in the districts have final approval.

Many districts in California are facing existing or potential litigation under the CVRA because of their at-large election methods. To help avoid potential litigation, the San Ramon Valley USD is taking actions to establish trustee areas and adopt a by-trustee-area election method. In order to establish the trustee areas and the method of election as expeditiously as possible, the district requests that the SBE waive the requirement that the trustee areas and the election method be approved at a districtwide election. If the SBE approves the waiver request, a by-trustee-area election method can be adopted in the district upon review and approval of the Contra Costa County Committee without a subsequent local election to approve the change.

Only the election to establish trustee areas and the election method will be eliminated by approval of the waiver request—voters in the San Ramon Valley USD will continue to elect all governing board members. Moreover, approval of the waiver will not eliminate any existing legal rights of currently seated board members.

The waiver request has been reviewed by the CDE and it has been determined that there was no significant public opposition to the waiver at the public hearing held by the governing board of the San Ramon Valley USD. The CDE has further determined that none of the grounds specified in *EC* Section 33051, which authorize denial of a waiver, exist. The CDE recommends the SBE approve the request by the San Ramon Valley USD to waive *EC* Section 5020 and portions of sections 5019, 5021, and 5030, which require a districtwide election to approve a by-trustee-area method of election.

**Demographic Information:** The San Ramon Valley USD has a student population of 32,000 and is located in a suburban area of Contra Costa 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](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 more than 170 similar waiver requests—most recently for the Vacaville USD at the January 2019 SBE meeting.

## **Fiscal Analysis (as appropriate)**

Approval of the waiver request will not have negative fiscal effects on any local or state agency. Failure to approve the request will result in additional costs to the San Ramon Valley USD for a districtwide election.

## **Attachment(s)**

- **Attachment 1:** Summary Table (1 page)
- **Attachment 2:** San Ramon Valley Unified School District General Waiver Request 5-1-2019 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
- **Attachment 3:** California *Education Code* Sections Proposed to be Waived (5 pages).

## Attachment 1: Summary Table

California *Education Code* Sections 5019, 5020, 5021, and 5030

Waiver Number	District	Period of Request	Bargaining Unit Representatives Consulted	Public Hearing and Board Dates	Advisory Committee Position
5-1-2019	San Ramon Valley Unified School District	<p><b>Requested:</b> January 8, 2019, to January 7, 2021</p> <p><b>Recommended:</b> January 8, 2019, to January 6, 2021</p>	<p>San Ramon Valley Education Association, Ann Katzburg President December 17, 2018</p> <p><b>Support</b></p> <p>San Ramon Valley Classified School Employee Association, Tami Castelluccio President December 17, 2018</p> <p><b>Support</b></p> <p>San Ramon Valley Service Employees International Union, Cari Luchini President December 17, 2018</p> <p><b>Support</b></p>	December 18, 2018	<p>San Ramon Valley Council of Parent/Teacher Associations (12/18/2018)</p> <p><b>No objections*</b></p>

## **Attachment 2: San Ramon Valley Unified School District General Waiver Request 5-1-2019**

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

CD Code: 0761804

Waiver Number: 5-1-2019

Active Year: 2019

Date In: 1/8/2019 12:42:57 PM

Local Education Agency: San Ramon Valley Unified School District

Address: 699 Old Orchard Dr.  
Danville, CA 94526

Start: 1/8/2019

End: 1/7/2021

Waiver Renewal: No

Waiver Topic: School District Reorganization

Ed Code Title: Elimination of Election Requirement

Ed Code Section: 5020, portions of 5019, 5021 and 5030

Ed Code Authority: 33050-33053

*Education Code or CCR to Waive: please see Attachment 3.*

Outcome Rationale: On November 6, 2018, the District received correspondence asserting that the District's current at-large elections violate the California Voting Rights Act (Elec. Code, § 14025, et seq.) ("CVRA"), and demanding that the District adopt "trustee-area" elections, where each trustee must reside within the designated trustee area boundary, and is elected only by the voters in that trustee area.

In order to comply with all Safe Harbor Timelines of this CVRA, this waiver will be required to complete the transition to "by-trustee area" before March 2019. This increases our ability to invest our valuable resources in our students and avoid potential litigation.

Student Population: 32000

City Type: Suburban

Public Hearing Date: 12/18/2018

Public Hearing Advertised: newspaper, internet website, community email blast

Local Board Approval Date: 12/18/2018

Community Council Reviewed By: pending-SRVCPTA

Community Council Reviewed Date: 12/18/2018

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Greg Medici

Position: Chief Business Officer

E-mail: [gmedici@srvusd.net](mailto:gmedici@srvusd.net)

Telephone: 925-552-2905

Bargaining Unit Date: 12/17/2018

Name: San Ramon Valley Classified School Employee Assoc

Representative: Tami Castelluccio

Title: President

Position: Support

Bargaining Unit Date: 12/17/2018

Name: San Ramon Valley Education Association

Representative: Ann Katzburg

Title: President

Position: Support

Bargaining Unit Date: 12/17/2018

Name: San Ramon Valley Service Employees Internatl Union

Representative: Cari Luchini

Title: President

Position: Support

## **Attachment 3: California *Education Code*** **Sections Proposed to be Waived**

Request to waive California Education Code Section 5020, and portions of sections 5019, 5021, and 5030, that require a districtwide election to establish by-trustee-area method of election. Language proposed to be waived is bracketed and in italics below:

### **§ 5019.**

#### **Trustee areas and size of school district governing boards; powers of county committee; proposal and hearing**

(a) Except in a school district governed by a board of education provided for in the charter of a city or city and county, in any school district or community college district, the county committee on school district organization may establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or adopt one of the alternative methods of electing governing board members specified in Section 5030.

(b) The county committee on school district organization may establish or abolish a common governing board for a high school district and an elementary school district within the boundaries of the high school district. The resolution of the county committee on school district organization approving the establishment or abolition of a common governing board shall be presented to the electors of the school districts as specified in Section 5020.

(c) (1) A proposal to make the changes described in subdivision (a) or (b) may be initiated by the county committee on school district organization or made to the county committee on school district organization either by a petition signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters, by 3 percent or 100, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 to 10,000 qualified registered voters, by 1 percent or 250, whichever is less, of the qualified registered voters residing in a district in which there are 10,001 to 50,000 qualified registered voters, by 500 or more of the qualified registered voters residing in a district in which there are 50,001 to 100,000 qualified registered voters, by 750 or more of the qualified registered voters residing in a district in which there are 100,001 to 250,000 qualified registered voters, or by 1,000 or more of the qualified registered voters residing in a district in which there are 250,001 or more qualified registered voters or by resolution of the governing board of the district. For this purpose, the necessary signatures for a petition shall be obtained within a period of 180 days before the submission of the petition to the county committee on school district organization and the number of qualified registered voters in the district shall be determined pursuant to the most recent report submitted by the county elections official to the Secretary of State under Section 2187 of the Elections Code.

(2) When a proposal is made pursuant to paragraph (1), the county committee on school district organization shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee on school district organization shall approve or disapprove the proposal.

(d) If the county committee on school district organization approves pursuant to subdivision (a) *[the rearrangement of ]*the boundaries of trustee areas for a particular district, then the *[rearrangement of the ]*trustee areas shall be effectuated for the next district election occurring at least 120 days after *[its ]*approval*], unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. The petition for an election shall be submitted to the county elections official within 60 days of the proposal's adoption by the county committee on school district organization. If the qualified registered voters approve pursuant to subdivision (b) or (c) the rearrangement of the boundaries to the trustee areas for a particular district, the rearrangement of the trustee areas shall be effective for the next district election occurring at least 120 days after its approval by the voters].*

## **[§ 5020.**

### **Presentation of proposal to electors**

*(a) 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.*

*(b) If a petition requesting an election on a proposal to rearrange trustee area boundaries is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.*

*(c) If a petition requesting an election on a proposal to establish or abolish trustee areas, to increase or decrease the number of members of the board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030 is filed, containing at least 10 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. Before the*



*proposal is presented to the electors, the county committee on school district organization may call and conduct one or more public hearings on the proposal.*

*(d) The resolution of the county committee approving a proposal to establish or abolish a common governing board for a high school and an elementary school district within the boundaries of the high school district shall constitute an order of election. The proposal shall be presented to the electors of the district at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.*

*(e) For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:*

*"For the establishment (or abolition or rearrangement) of trustee areas in \_\_\_\_ (insert name) School District --Yes" and "For the establishment (or abolition or rearrangement) of trustee areas in \_\_\_\_ (insert name) School District--No."*

*"For increasing the number of members of the governing board of \_\_\_\_ (insert name) School District from five to seven--Yes" and "For increasing the number of members of the governing board of \_\_\_\_ (insert name) School District from five to seven--No."*

*"For decreasing the number of members of the governing board of \_\_\_\_ (insert name) School District from seven to five--Yes" and "For decreasing the number of members of the governing board of \_\_\_\_ (insert name) School District from seven to five--No."*

*"For the election of each member of the governing board of the \_\_\_\_ (insert name) School District by the registered voters of the entire \_\_\_\_ (insert name) School District--Yes" and "For the election of each member of the governing board of the \_\_\_\_ (insert name) School District by the registered voters of the entire \_\_\_\_ (insert name) School District--No."*

*"For the election of one member of the governing board of the \_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--Yes" and "For the election of one member of the governing board of the \_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--No."*

*"For the election of one member, or more than one member for one or more trustee areas, of the governing board of the \_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters of the entire \_\_\_\_ (insert name) School District--Yes" and "For the election of one member, or more than one member for one or more trustee areas, of the governing board of the \_\_\_\_ (insert name) School District residing in each trustee area elected by the registered voters of the entire \_\_\_\_ (insert name) School District--No."*

*"For the establishment (or abolition) of a common governing board in the \_\_\_\_ (insert name) School District and the \_\_\_\_ (insert name) School District--Yes" and "For the establishment (or abolition) of a common governing board in the \_\_\_\_ (insert name) School District and the \_\_\_\_ (insert name) School District--No."*

*If more than one proposal appears on the ballot, all must carry in order for any to become effective, except that a proposal to adopt one of the methods of election of board members specified in Section 5030 which is approved by the voters shall become effective unless a proposal which is inconsistent with that proposal has been approved by a greater number of voters. An inconsistent proposal approved by a lesser number of voters than the number which have approved a proposal to adopt one of the methods of election of board members specified in Section 5030 shall not be effective.]*

## **§ 5021.**

### **Incumbents to serve out terms despite approval of change**

(a) If a proposal for the establishment of trustee areas formulated under Section[s] 5019 [and 5020 ]is approved[ *by a majority of the voters voting at the election*], any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030. In the event two or more trustee areas are established [at such election ]which are not represented in the membership of the governing board of the school district, or community college district the county committee shall determine by lot the trustee area from which the nomination and election for the next vacancy on the governing board shall be made.

(b) If a proposal for rearrangement of boundaries is approved by[ *a majority of the voters voting on the measure, or by*] the county committee on school district organization[ *when no election is required*], and if the boundary changes affect the board membership, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030.

(c) If a proposal for abolishing trustee areas is approved[ *by a majority of the voters voting at the election*], the incumbent board members shall serve out their terms of office and succeeding board members shall be nominated and elected at large from the district.

## **§ 5030.**

### **Alternate method of election**

Except as provided in Sections 5027 and 5028, in any school district or community college district having trustee areas, the county committee on school district organization and the registered voters of a district, pursuant to Section[s] 5019[ and 5020, respectively], may at any time recommend one of the following alternate methods of electing governing board members:

(a) That each member of the governing board be elected by the registered voters of the entire district.

(b) That one or more members residing in each trustee area be elected by the registered voters of that particular trustee area.

(c) That each governing board member be elected by the registered voters of the entire school district or community college district, but reside in the trustee area which he or she represents.

The recommendation shall provide that any affected incumbent member shall serve out his or her term of office and that succeeding board members shall be nominated and elected in accordance with the method recommended by the county committee.

Whenever trustee areas are established in a district, provision shall be made for one of the alternative methods of electing governing board members.

[In counties with a population of less than 25,000, ]the county committee on school district organization or the county board of education, if it has succeeded to the duties of the county committee, may at any time, by resolution, with respect to trustee areas established for any school district, other than a community college district, amend the provision required by this section without additional approval by the electors, to require one of the alternate methods for electing board members to be utilized.