

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education July 2021 Agenda Item # W-06

## Subject

Request by **Laguna Joint Elementary** **School District** to waive portions of California *Education Code* sections 5018, 5022, and 35012, which will allow the district governing board to increase the number of board members from three to five and to fill the two new board seats through appointment.

## Waiver Number

8-4-2021

## Type of Action

Action, Consent

## Summary of the Issue(s)

California *Education Code* (*EC*) Section 5018 provides that any elementary school district having a three-member governing board may increase the size of the governing board to five. This section further provides that the two additional members will be elected at an upcoming established election date. Pursuant to *EC* Section 5022, if the size of the governing board of a district is increased from five to seven, the two additional members are appointed by the governing board.

The Laguna Joint Elementary School District (ESD) has a three-member governing board. On July 1, 2021, the Lincoln ESD will lapse and be annexed into the Laguna Joint ESD. State Board of Education (SBE) approval of this waiver request allows the Laguna Joint ESD to increase its three-member board to five and appoint voters of the former Lincoln ESD community to the additional two seats—thus, ensuring representation on the board from the entire community of the newly reorganized district.

## Authority for Waiver

*EC* Section 33050

## Recommendation

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

The California Department of Education (CDE) recommends that the SBE approve the waiver on the condition that the Laguna Joint ESD governing board appoint members of the former Lincoln ESD governing board, or other voters from the area of the former Lincoln ESD, to the additional positions on the board.

## Summary of Key Issues

*EC* Section 5018 provides that any elementary school district having a three-member governing board may increase the size of the governing board to five. This section further provides that the two additional members will be elected at an upcoming established election date.

This method of adding additional members to the governing board differs from the method employed when the size of a governing board is increased from five to seven. Under this circumstance, the two additional members are appointed by the governing board of the district (*EC* Section 5022).

The Laguna Joint ESD has a three-member governing board. On July 1, 2021, the adjacent Lincoln ESD will lapse and be annexed into the Laguna Joint ESD. This annexation does not change the composition of the Laguna Joint ESD governing board—after the annexation, none of the three seated members of the board will be residents of the former Lincoln ESD territory.

According to information provided in the waiver submittal, the Laguna Joint ESD would like to ensure that the community of the former Lincoln ESD has board representation in the newly reorganized district. SBE approval of this waiver request allows the Laguna Joint ESD to increase its three-member board to five and appoint members of the former Lincoln ESD governing board, or other voters from the former Lincoln ESD community, to the two additional seats—thus, ensuring that this community has board representation in the newly reorganized district.

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 conducted by the governing board of the Laguna Joint ESD. Given this lack of opposition, the support of the County Superintendent, and the determination of the CDE that none of the reasons for denial in *EC* Section 33051(a) exist, the CDE recommends that the SBE approve the request by the Laguna Joint ESD to waive portions of *EC* sections 5018, 5022, and 35012, which will allow the governing board to increase the number of board members from three to five and to fill the two new board seats through appointment. The CDE further recommends that SBE approval is on the condition that the Laguna Joint ESD governing board appoint members of the former Lincoln ESD governing board, or other voters from the area of the former Lincoln ESD, to the additional positions on the board.

**Demographic Information:** The Laguna Joint ESD has a student population of 19 and is located in a rural area of Marin 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 not approved similar waiver requests in the past. However, the SBE has approved numerous district requests to eliminate the election required to reduce the size of a governing board from five to three.

## Fiscal Analysis (as appropriate)

Approval of the waiver request will not have significant negative fiscal effects on any local or state agency. Increasing the size of the governing board may result in some increased costs to the Laguna Joint ESD since the district provides board members access to its employee group health plans and, if the board member chooses to enroll in one of the plans, up to $100 per month toward the cost of the plan.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Laguna Joint Elementary School District General Waiver Request 8-4-2021 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** California *Education Code* Sections Proposed for Waiver  
  (2 pages).

# Attachment 1: Summary Table

California *Education Code* sections 5018, 5022,and 35012

| **Waiver Number** | **District** | **Period of Request** | **Bargaining Unit Representatives Consulted** | **Public Hearing and Board Date** | **Advisory Committee Position** |
| --- | --- | --- | --- | --- | --- |
| 8-4-2021 | Laguna Joint Elementary School District | **Requested:** July 1, 2021, to  June 30, 2022  **Recommended:** July 1, 2021, to  June 30, 2022 | The district has no bargaining units. | **Public Hearing:** March 9, 2021  **Board Action:** April 13, 2021 | District Reorganization Subcommittee and Laguna School Parent Advisory Committee (4/7/2021)  **No objections** |

Created by California Department of Education  
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# Attachment 2 Laguna Joint Elementary School District General Waiver Request 8-4-2021

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 2165342

Waiver Number: 8-4-2021

Active Year: 2021

Date In: 4/16/2021 12:56:28 PM

Local Education Agency: Laguna Joint Elementary

Address: 2657 Chileno Valley Rd.

Petaluma, CA 94952

Start: 7/1/2021

End: 6/30/2022

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: Other Waivers

Ed Code Title: Other Waivers

Ed Code Section: 5018, 5022, 5023, & 35012

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: See Attachement 3

Outcome Rationale: The Laguna Joint District is anticipating receiving the Lincoln Union School District in a lapsation action to take effect on July 1, 2021 pending confirmation by the Marin County Committee on School District Organization. The governing board of the Laguna Joint District wishes to ensure the entire community has board representation in the newly reorganized district.

Student Population: 19

City Type: Rural

Public Hearing Date: 3/9/2021

Public Hearing Advertised: Published in the Santa Rosa Press Democrat on February 26, 2021 and March 2, 2021 and posted in three locations within the District's geographical location.

Local Board Approval Date: 4/13/2021

Community Council Reviewed By: 1. Reorganization subcommittee 2. Laguna School Parent Advisory

Community Council Reviewed Date: 4/7/2021

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: N

Categorical Program Monitoring: N

Submitted by: Ms. Kate Lane

Position: Assistant Superintendent

E-mail: [klane@marinschools.org](mailto:klane@marinschools.org)

Telephone: 415-499-5822

Fax:

# Attachment 3 California *Education Code* Sections Proposed for Waiver

Request to waive portions of California *Education Code* (*EC*) sections 5018, 5022, and 35012 in order to allow the Laguna Joint Elementary School District (ESD) to increase the number of board members from three to five and to fill the two new board seats through appointment. Language proposed to be waived is bracketed and in italics below:

## § 5018.

Any elementary school district having a governing board of three members may**[***, and any elementary school district having a governing board of three members whose average daily attendance during the preceding fiscal year was 300 or more shall do either of the following:*

*(a)***]** By its own action determine that the number of members of the governing board shall be increased to five**[***, in which case two additional members shall be elected at an upcoming established election date, as specified in Section 1000 of the Elections Code, determined by the board***]**.

**[** *(b) Request the county superintendent of schools having jurisdiction to submit the question of whether the number of members of the governing board shall be increased to five to the voters of the elementary school district at an upcoming established election date, as specified in Section 1000 of the Elections Code, determined by the county superintendent of schools. At the same election, two additional members shall be elected to take office if the number of governing board members is increased.*

*Candidates for the two additional offices shall state in the declarations of candidacy filed for the election that the candidates are candidates for the two additional offices separately from the other offices to be filled in the election and shall clearly indicate to the voters that they may vote for two of the candidates to take office if the voters approve the proposed increase in the number of board members.*

*If the voters at the election do not approve the increase in membership of the governing board, the same question may be submitted to the voters at subsequent governing board member elections. Requests to the county superintendent to submit the question to the voters of a district shall be filed with him or her by the governing board of the district no later than 100 days prior to the election.*

*If, pursuant to either subdivision (a) or subdivision (b), two additional governing board members are authorized and elected, the one receiving the higher number of votes shall hold office for a term commencing the first day of the month following the election until the first Friday in December in the second succeeding year following the election in which a regular governing board election is held, and the other one shall hold office for a term commencing the first day of the month following the election until the first Friday in December in the first succeeding year following the election in which a regular governing board election is held. Thereafter the governing board shall be composed of five members elected in the same manner and for the same term as governing boards having five members***.]**

## § 5022.

If the number of members of the governing board is increased**[** *from five to seven***]**, the two additional members of the board of trustees shall be appointed by the governing board of the district, with the term of one of those two additional appointees being designated to expire on the first Friday in December of the next succeeding odd-numbered year and the term of the other appointee being designated to expire on the first Friday in December of the second succeeding odd-numbered year.

## § 35012.

**[**(c) *Notwithstanding subdivision (a), and except as provided in this subdivision and Section 5018, the governing board of an elementary school district other than a union or joint union elementary school district shall consist of three members selected at large from the territory comprising the school district. Whenever, in any such elementary school district the average daily attendance during the preceding fiscal year is 300 or more, the procedures prescribed by Section 5018 shall be undertaken*.**]**

Note: The Laguna Joint ESD also requests waiver of *EC* Section 5023. This section applies only to school districts with existing by-trustee-area methods of election. Since Laguna Joint ESD governing board members are elected “at-large,” *EC* Section 5023 is unnecessary for purposes of this waiver and is not included here.