

Cypress School District
Cypress, California

RESOLUTION NO. 167-23

**AUTHORIZATION FOR SUBMISSION TO THE STATE BOARD OF EDUCATION
OF A REQUEST FOR THE WAIVER OF EDUCATION CODE SECTIONS 5019, 5020,
5021 AND 5030 TO THE EXTENT THEY REQUIRE AN ELECTION IN ADVANCE
OF THE ESTABLISHMENT OF TRUSTEE AREAS AND ADOPTION OF THE
“BY-TRUSTEE AREA” ELECTION METHODOLOGY**

WHEREAS, the Cypress Elementary School District (“District”) currently uses an at-large system of electing its governing board members; and

WHEREAS, at-large electoral systems such as the District’s are subject to challenge under the California Voting Rights Act of 2001, codified at sections 14025–14032 of the California Elections Code (“CVRA”); and

WHEREAS, “by-trustee area” electoral systems are not vulnerable to challenge under the CVRA; and

WHEREAS, in a by-trustee area system of election, candidates for the District’s Governing Board (the “Board”) must reside within a specific geographic subarea of the District called a “trustee area” and candidates are elected only by the voters of that trustee area; and

WHEREAS, one method of transitioning from an at-large electoral system to a by-trustee area electoral system is for a school district’s governing board to petition the local county committee on school district organization by resolution to initiate the transition under California Education Code section 5019(c)(1); and

WHEREAS, the provisions of Education Code section 5020, and related sections, require that the establishment of trustee areas and adoption of a by-trustee area election process must be put to a vote by the electors of the District; and

WHEREAS, to avoid the cost, expense and uncertainty inherent in CVRA cases, the District is proceeding to change its current at-large election system; and

WHEREAS, at its meeting of May 11, 2017, this Board adopted Resolution No. 167-21 which approved a proposed map and plan dividing the District into five trustee areas from which one Board member will be selected by the registered voters of that area and in which the Board member must reside. The map of trustee areas approved by this Board pursuant to Resolution No. 167-21 is referred to as map 2b and is attached to Resolution No. 167-21; and

WHEREAS, Resolution No. 167-21 also identifies trustee areas B, C, and D, as described in map 2b, to be the three areas which would hold elections at the District’s next regular election in November of 2018. Trustee Areas A and E will hold elections in November of 2020; and

WHEREAS, in order to complete the transition in a timely manner and to guarantee that the new by-trustee area process will be in place in time to elect governing board members at the Board’s next regularly-scheduled election in November of 2018, the District must obtain a

waiver of the election process as set forth in Education Code sections 5019, 5020, 5021 and 5030 from the State Board of Education; and

WHEREAS, Education Code section 33050 *et seq.* allows the governing board of a school district to request the State Board of Education to waive all or part of any section of the Education Code or any regulation adopted by the State Board of Education that implements a provision of the Education Code, subject to certain exceptions; and

WHEREAS, Education Code sections 5020 and related sections are not listed as exceptions in Education Code section 33050 *et seq.* and can thus be waived; and

WHEREAS, to obtain a waiver, the District must comply with Education Code and California Department of Education and State Board of Education requirements; and

WHEREAS, the District has consulted with all collective bargaining units and they support this waiver request; and

WHEREAS, the District has consulted with advisory and other committees or councils with an interest in the waiver and they support this waiver request; and

WHEREAS, on June 8, 2017, the District conducted a properly noticed public hearing, at which time the public, if any, testified on the merits of obtaining a waiver from the State Board of Education; and

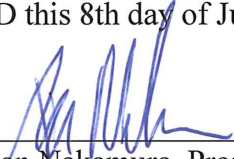
WHEREAS, the District must submit a complete General Waiver Request form to the California Department of Education; and

NOW THEREFORE, be it resolved by the Governing Board of the Cypress Elementary School District as follows:

1. That the above recitals are true and correct.
2. That the Board hereby declares the Board's intention to seek a waiver of Education Code section 5020 and portions of related sections pertaining to the requirement that the establishment of trustee areas and adoption of a by-trustee area election process must be put to a vote by the electors of the District.
3. That the District has consulted all collective bargaining units, and made every effort to include them as participants in the waiver process. ACT (teachers' union), and CSEA (classified employees' union), were consulted on May 9, 2017, and April 17, 2017, respectively, and each has indicated its support of the District's General Waiver Request.
4. That the District has consulted committees and councils, including School Site Councils on the following dates: Arnold May 16, 2017; King May 11, 2017; Landell May 16, 2017; Luther April 25, 2017; Morris May 25, 2017; Vessels April 25, 2017, and the DELAC (District English Language Advisory Committee) on May 4, 2017, and each committee and council has indicated their support for the District's General Waiver Request.

5. That the District distributed a notice specifically inviting public testimony regarding the waiver, and said notice was disseminated via local media on May 27, 2017; posted at the District Office and all school sites on May 25, 2017; and posted on the District's website on May 26, 2017. The posted notices included the date, time, location and subject of the hearing.
6. That on June 8, 2016, the Board conducted a properly noticed public hearing held during a regular meeting of the Board at which time the public was able to testify on the waiver proposal.
7. That the District's Superintendent and/or designee, is authorized and directed to submit a General Waiver Request to the California Department of Education, seeking a waiver of the requirement that the establishment of trustee areas and adoption of a by-trustee area election process must be put to a vote by the electors of the District under Education Code section 5020 and related sections in order to ensure the timely adoption of the District's trustee areas and the District's orderly transition from its current at-large electoral process to a by-trustee area electoral process.
8. A draft of the proposed General Waiver Request form, along with its Attachments A and B, is attached hereto as Exhibit 1.
9. The Superintendent or designee is authorized to take such additional action consistent with the intent of this Resolution to obtain the identified waiver, as may be necessary and proper.


ADOPTED, SIGNED AND APPROVED this 8th day of June, 2017.



Brian Nakamura, President of the Governing Board
for the Cypress Elementary School District

I, Sandra Lee, Clerk of the Governing Board of the Cypress Elementary School District, do hereby certify that the foregoing Resolution was adopted by the Governing Board of said District at a meeting of said Board held on the 8th day of June, 2017, and that it was so adopted by the following vote:

AYES:	Kern, Lee, Nakamura, Sondhi
NOES:	0
ABSTAIN:	McDougall
ABSENT:	0



Sandra Lee, Clerk of the Governing Board
for the Cypress Elementary School District